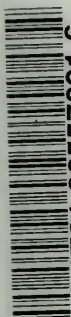


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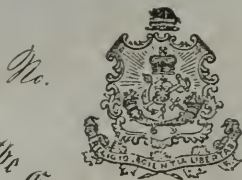
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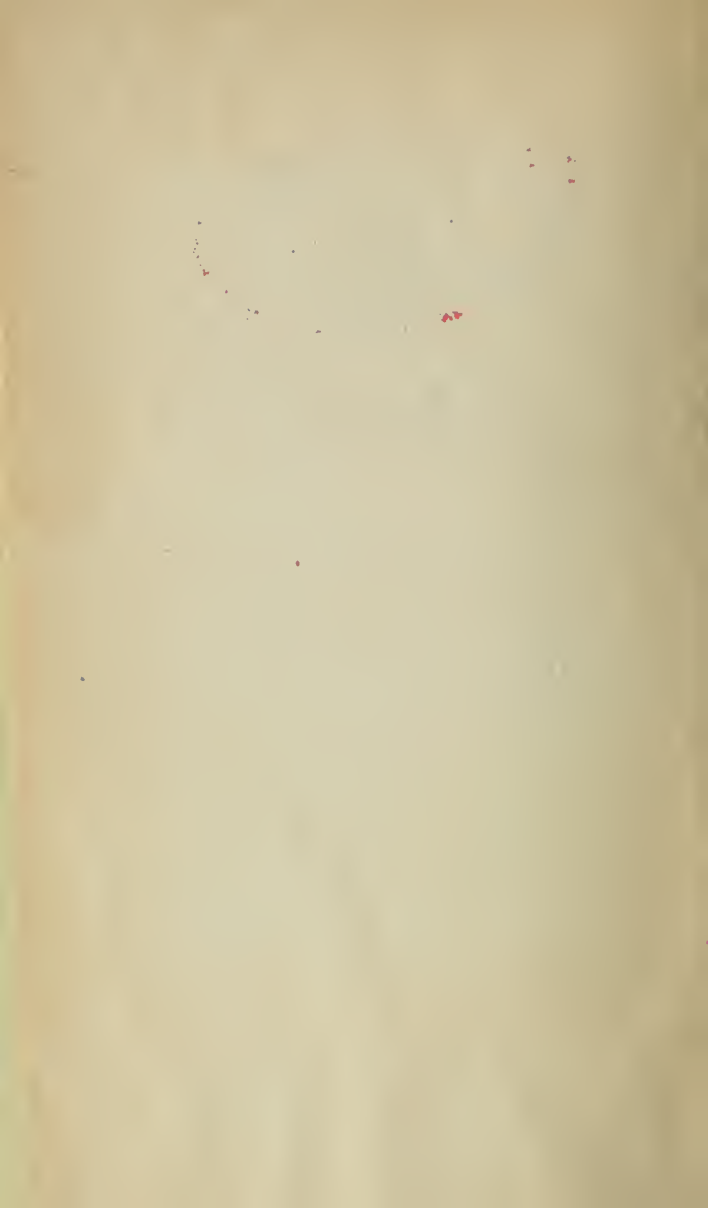
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THE LORD AND THE VASSAL.



THE

LORD AND THE VASSAL:

A FAMILIAR EXPOSITION
OF THE

FEUDAL SYSTEM

IN

THE MIDDLE AGES;

WITH

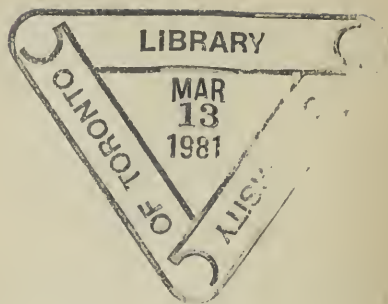
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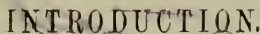
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INTRODUCTION.

IN studying the history of nations, the knowledge acquired by the general reader depends, in great measure, for its value, upon the method adopted by the historian of grouping the details. The usual method of distributing historical events under the reigns of the sovereigns in which they occurred has its advantages; but is nevertheless likely to encourage the idea that the events of any one particular reign form a complete series, having little or no connection with those which precede or with those which follow. But history is most profitably studied when it is used as the exponent of the general condition of mankind,—tracing the origin and progress of its most important institutions,—of education, of science and the useful arts, of commerce, of the fine arts, and of the political and domestic relations of the people;—when, in short, it follows and clearly defines the progress of civilization.

In offering to the notice of the general reader a sketch, however brief, of the FEUDAL SYSTEM, such an enlarged method of treating the subject becomes absolutely necessary. The Feudal System was not erected by any one sovereign, nor did any one sovereign overthrow it. It was the growth of ages, and the result of numberless events, each of which contributed its peculiar share in the production of the joint effects: it developed itself in countries where the monarchs were powerful, and in others where the monarchs were almost powerless: it was born in the anarchy, consequent on the overthrow by rude barbarians of an ill-ordered empire, and became by degrees a part and parcel

of the characteristics of every nation of Europe ; it battled at one time with kings ; at another with ecclesiastics ; at another with the people ; and was, at length, by imperceptible degrees, subverted by the combined power of all ; leaving behind it, however, effects which remain even to the present day.

Before entering upon the perusal of the following sketch, a slight definition of the Feudal System may be acceptable to the general reader. The Feudal System was a state of things in which the greater portion of a kingdom or country was parcelled out on certain conditions among powerful nobles ; the king receiving from the nobles a recognition of his sovereignty, and as much personal service as he was able to exact or they chose to bestow ; while the nobles themselves exercised nearly all the privileges of sovereigns over the people resident on their territories ; so that, practically, so far as the great mass of inhabitants was concerned, the country contained a number of petty kings, each king being surrounded by his little band of subjects.

It would be difficult to define with precision the *time* when this system was in force ; but it may be convenient to indicate the year A.D. 1000, as a central point, when the system was in greatest vigour ; the events of several centuries having contributed to the attainment of that point, and the progress of decay extending over several centuries subsequent to it. As to the *locality* in which this system was developed, all the countries of Europe previously occupied by the Romans became more or less subject to its influence ; but France was perhaps the principal in this respect, followed in a greater or less degree by Germany, Britain, Italy, and Spain. In Russia the Feudal System continues in operation to the present day.

In tracing the causes which led to the Feudal System ; its practical working ; the usages resulting from it ; the

circumstances of its decline and fall, and the evidences of its former existence still observable in modern society, our chief authorities have been ROBERTSON'S Introduction to the *History of the reign of the Emperor Charles the Fifth*; HALLAM'S *History of Europe during the Middle Ages*; and GUIZOT'S *Histoire de la Civilization*. Occasional illustrations have been sought for in the works of other writers; but our chief obligations are due to ROBERTSON, whose accurate investigations and beautiful style have contributed to form his works into a valuable model for all subsequent labourers in the fruitful field of philosophical history.



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THE LORD AND THE VASSAL.

CHAPTER I.

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DURING the earlier centuries of the Christian era nearly the whole of civilized Europe was subject to one central power. The growth of that power had commenced in the city of Rome; from Rome it had extended on all sides until it embraced the whole of what we now call Italy; from Italy it had extended westward to the Iberian peninsula (now called Spain and Portugal); eastward to Greece and Asia Minor; northward to Gaul and Britain; and partially in a north-east direction towards Germany; until at length the Roman eagle was the standard round which armies assembled in nearly all the countries of Europe. The process of conquest was nearly the same in all these cases. A general—sometimes the emperor himself—went with an army of bold and hardy warriors, against whom the imperfectly armed natives could not contend, and thus province after province was gradually brought into subjection. A governor, perhaps the general who had achieved the conquest, was then put in command of the country, which became a province of the Roman empire; and this governor,

while receiving orders on all important matters from Rome, exercised in other respects a somewhat extensive sovereignty. As to the form of government established in the conquered countries, it was regular though severe. The Romans communicated their arts, sciences, and language, to their new subjects. But before the conquest could be considered as complete, many hard struggles and much misery and privation were undergone; for a single battle did not, as among the effeminate Asiatics, decide the fate of a nation; but at length, when the domination of Rome was complete, it was felt in many respects to be a beneficial change from the former mode of government. Agriculture was encouraged, the population increased, the ruined cities were rebuilt, new towns were founded, and industry revived, with its accompanying blessings and advantages.

But the Roman supremacy produced also its evils. The conquered people were disarmed and overawed by soldiers kept in pay to restrain them. The governors, far distant from the imperial court, plundered them with impunity by means of exorbitant taxes, levied with very little regard to justice, or to the ability of the people to pay. The most enterprising citizens took their departure to distant capitals, in quest of preferment or wealth, so that those left behind had not the means to carry on commerce and manufactures with proper vigour. The people became by degrees so accustomed to look up to the governor with a kind of timid awe, and to receive his commands with submission, that it was hardly possible for them to retain their original martial and independent character; and they lost the habit of deciding for themselves, or of acting from the impulse of their own minds. A proof of this was given by the Britons, at a time when the Roman legions had been called away from the country; and when the Picts and Caledonians invaded Britain, the natives behaved with a weakness and pusillanimity quite inconsistent with the boldness with which they resisted the original attacks of the Romans, saying, in a letter to the Roman general, 'We know not which way

to turn us ; the barbarians drive us to the sea, and the sea forces us back on the barbarians ; between which we have only the choice of two deaths, either to be swallowed up by the waves, or to be slain by the sword.' This debasement of spirit in the Roman provinces, which at the first thought may seem to have been an evidence of strength on the part of the Roman conquerors, afterwards proved to be a source of weakness ; for when the rude and fierce invaders from eastern Europe poured into these countries, the timid inhabitants were unable to resist them successfully. M

The way was also paved for a change by the deterioration in the Roman character. The chief victories of the Romans were effected when Rome was a republic, and were consolidated by the wisdom of its civil institutions, as much as by the vigour of its military discipline. But under the emperors, the principles on which the stability of the one depended were forgotten or despised, and the vigour of the other was gradually relaxed 'The armies of the empire in the fourth and fifth centuries,' says Robertson, 'bore scarcely any resemblance to those invincible legions which had been victorious wherever they marched. Instead of freemen, who voluntarily took arms for the love of glory and of their country, provincials and barbarians were bribed or forced into service. These were too feeble or too proud to submit to the fatigue of military duty. They even complained of the weight of their defensive armour as intolerable, and laid it aside. Infantry, from which the armies of ancient Rome derived their vigour and stability, fell into contempt ; the effeminate and undisciplined soldiers of later times could hardly be brought to venture into the field but on horseback. These wretched troops, however, were the only guardians of the empire. The jealousy of despotism had deprived the people of the use of arms ; and subjects, oppressed and rendered incapable of defending themselves, had neither spirit nor inclination to resist their invaders, from whom they had little to fear, because their condition could hardly be rendered more unhappy.' In a financial

point of view, too, the empire was becoming wretchedly embarrassed. The taste for the luxuries of the East increased to such a pitch in the imperial court, that large sums were sent to India in payment for them; and as this money did not return in a commercial way, there was a constant drain upon the national treasury; by the large subsidies, too, paid to the mercenary troops in the distant provinces, a still greater quantity of specie was withdrawn from the head-quarters of the empire. The limits of the empire continued to be as extensive as ever, while the spirit requisite for its defence declined, and its resources became exhausted. The emperors, instead of bold generals, became effeminate voluptuaries; and when, in times of difficulty, their energies were most required, they were least available.

Such was the condition in which the various provinces of the Roman empire were placed at the time of the irruption of the barbarians. Let us next inquire who these barbarians were.

The Romans made but few conquests in the north-eastern part of Europe, such as the region now occupied by Germany, Poland, Russia, and Scandinavia. These countries were too remote from the seat of government, too poor in available wealth, and inhabited by too brave and bold a people, to render a long series of contests profitable. It was only at the western and southern margin of Germany that the Romans became acquainted with the habits of these people; and from the description given by Tacitus, it would appear that these German tribes, shut out by their geographical position from all intercourse with the Mediterranean, and cut off by their habits of life from commercial intercourse with the neighbouring nations, occupied a very low position in the social scale. He describes them as living in wretched hovels, very frequently under ground. Without any knowledge of the precious metals, without towns, or even villages, their whole wealth was in flocks of stunted cattle. Their agriculture must have been of a very low kind; for no man possessed a piece of ground

above one season, at the end of which all the land was subject to a fresh division. They were for the most part naked, with a loose cloak thrown over them ; but those in easier circumstances clothed themselves in the skins of wild beasts, and other garments, made to fit the body closely ; nor did the attire of the women differ materially from that of the men. Their religion was the grossest idolatry, and their divination chiefly depended on auguries drawn from the neighing and snorting of their horses. Murder and other crimes were not punished, but paid for by compensation in cattle, or by personal slavery where the party had nothing else to give. War was their whole occupation ; and when engaged in it their women brought them food, often joining in the battle, and always encouraging it. The most warlike commonly passed their time, when not actually in battle, in eating and sleeping ; while the tending of the flocks, and the tilling of the very small portion of ground which was brought into cultivation, devolved upon the women and the old men.

Of the Finni, or Fins, a people living farther north-eastward than the Germans, the account is still more unfavourable. Their ferocity was great, their poverty squalid ; they had neither arms, nor houses, nor home ; they fed on herbs, clothed themselves in skins, and slept on the ground ; they defended themselves with arrows made of sharpened bone, for iron they had none ; they subsisted chiefly by the chase, the women following them, and demanding their portion of the spoil ; they sheltered their infants from the weather and from wild beasts among the branches of trees ; and yet with all this they were said to enjoy their existence, and to care not for the comforts of a home.

Such is the substance of the account given by Tacitus of the nations from which subsequently arose the conquerors of the Roman empire. But it seems probable that the peculiar phase which distinguished the feudal system, afterwards established, took its rise from some usages among the German nations, although we have but indistinct evi-

dence of the nature of these usages. Be this as it may, these rude warriors turned their steps westward, probably when they had had proof of the increasing weakness of the Roman empire, and fell in hordes on the spiritless people of the provinces. The mercenary and effeminate troops stationed on the frontier, astonished at the fierceness of the invaders, either fled on their approach, or were routed at the first onset. The feeble expedient to which the emperors had recourse, of taking large bodies of the barbarians into pay, and of employing them to repel new invaders, hastened instead of retarded the destruction of the empire; for these mercenaries soon turned their arms against their employers, and with greater advantage than ever; for, by serving in the Roman armies they had acquired, in addition to their natural fearlessness, all the discipline which was still remaining among the Romans.

Among these barbarians, inhabiting either Germany itself, or the countries northward and eastward of it, were nearly all those whose names are familiar to us in connexion with the overthrow of the Roman empire. The *Huns* belonged to Scythia and Sarmatia, countries corresponding to modern Russia and Tartary. The *Goths* and the *Vandals* were two tribes of Scandinavians from the shores of the Baltic, each of which was subdivided into two—the *Ostrogoths* and *Visigoths* ('east' and 'west' Goths) among the Goths; and *Burgundians* and *Lombards* among the Vandals. The *Alani* and the *Venedi* were tribes of Scythians, and the *Franks* were a German nation.

The various attacks made by these several tribes or hordes continued during a very considerable period of time, and met with varying success according to circumstances. These rude people naturally commenced their attacks on the frontiers of the empire, where the Germans, somewhat less barbarous than the Scythians farther eastward, made inroads on some of the Roman provinces, and by degrees gained advantages. But if this had been all, the downfall of the empire might not have taken

place : any one of these nations might perhaps have been overcome, but the geographical position of the whole taken collectively was such as to lead to more disastrous results. Germany was bounded westward by the provinces of the empire, in which, notwithstanding the decay in the national character of the Romans, the arts, sciences, and usages of social life, were far in advance of the barbarians ; while in the east it was environed by the poor, sterile, uncultivated, and bleak region of Tartary. As the Romans, therefore, had an advantage over the Germans, so had these latter an advance over the Scythians, in being nearer to a fruitful country. The result was, that the Germans not only invaded the Roman provinces by inclination, but they were forced to do so by the Scythians in their rear : the wave rolled onward in a westward direction, each tribe urging on those which preceded it. If they advanced eastward, they only plunged farther into the wilds of Tartary ; if they advanced westward, they had a chance of sharing the luxuries of the Roman people ; so that the tide of irruption set in strongly in this latter direction.

It will readily be supposed that a tribe did not succeed in conquering and occupying a district without some opposition, and without sometimes experiencing a defeat. The Goths, for instance, made an inroad into the Roman provinces on the banks of the Danube, about A. D. 250 ; they had gradually extended themselves from the eastern parts of the Baltic to the Danube ; they then invaded Greece. The two tribes into which they were divided, *Ostro-* and *Visi-*Goths, pursued different routes. The Visigoths conquered the greater part of what is now called Spain and France ; while the Ostrogoths conquered Italy. The Visigoths were afterwards in their turn conquered by the Franks, and the Ostrogoths by the Lombards. In short, for three or four centuries the tumult, changes, and successive irruptions, were such that it would be profitless and tedious to follow them ; suffice it to say, that the various tribes ultimately settled down somewhat in the following manner. The *Visigoths*,

after possessing Gaul and Spain, were reduced to the possession of a small territory at the junction of the two countries. The *Ostrogoths*, after possessing Italy, were compelled to yield to the *Lombards*, who gave their name to the northern part of that country. The *Franks*, who drove the Visigoths from Gaul, obtained complete possession of that country, and gave to it the name of France. The *Burgundians* settled in that province which has obtained its name from them. The *Venedi* took possession of the islands at the head of the Adriatic, to which they gave the name of Venice. The *Huns* gave their name to the country of Hungary, where they settled after a long career of rapine. The *Slavonians* retained possession of Russia and Lithuania. The *Vandals* overran the south of Africa, and committed greater devastation than any other of the barbarous tribes; but they were afterwards conquered by Belisarius. Lastly, the *Saxons*, being invited by the Romans into Britain to assist them in driving out the *Picts*, conquered both Romans and Picts, and settled in the southern part of Britain.

These changes were not wrought without terrible suffering on the part of the original inhabitants of these several countries. The invaders being rude, fierce, and unacquainted with the amenities of civilized life, let loose their passions on the defenceless people without remorse, and in many cases with little obvious benefit to themselves. The Vandals were distinguished for fierceness even among so many who were fierce. They were the first of the barbarians who invaded Spain, which was one of the richest and most populous of the Roman provinces, and inhabited by a race distinguished for courage in the times when the Romans made their first attacks. But so entirely did they become enervated by their subjection to the Romans, that the Spaniards (then called Iberians) offered scarcely any resistance to the attacks of the Vandals, and consequently succumbed to them at a very early period of the barbarous irruption. The Vandals divided the country amongst them-

selves by casting lots, but not before, with senseless barbarity, they had destroyed the whole face of that beautiful land. Famine and pestilence brought accumulated horrors on the poor inhabitants, and the living were in some instances forced to feed on the dead bodies of their countrymen. At a later period, when the Vandals had been some time in possession of Spain, and when the Goths attacked them, the inhabitants suffered redoubled miseries; for the country became then plundered by both parties, and what little yet remained from the ferocity of the Vandals was destroyed by the Goths.

When the Vandals were conquered by the Goths, and driven out of Spain, they crossed the Straits of Gibraltar, and landed in Africa, then a fertile province of the Roman empire, now the empire of Morocco. Here their ruthless cruelty was shewn as it had been in Spain. A contemporary writer, in giving an account of their proceedings, said: 'They found a province well cultivated, and enjoying plenty; the beauty of the whole earth. They carried their destructive arms into every corner of it; they dispeopled it by their devastations; exterminating every thing with fire and sword. They did not even spare the vines and fruit-trees, that those, to whom caves and inaccessible mountains had afforded a retreat, might find no nourishment of any kind. Their hostile rage could not be satiated, and there was no place exempted from the effects of it. They tortured their prisoners with the most exquisite cruelty, that they might force from them a discovery of their hidden treasures. The more they discovered, the more they expected, and the more implacable they became. Neither the infirmities of age nor of sex; neither the dignity of nobility nor the sanctity of the sacerdotal office could mitigate their fury; but the more illustrious their prisoners were, the more barbarously they insulted them. The public buildings, which resisted the violence of the flames, they levelled with the ground. They left many cities without an inhabitant. When they approached any fortified place which

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their undisciplined army could not reduce, they gathered together a multitude of prisoners, and putting them to the sword, left their bodies unburied, that the stench of their carcases might oblige the garrison to abandon it.'

The other tribes of barbarians carried similar destruction into other parts of what was once the Roman empire. The Huns were a very fierce race. They began to assail the empire in the fourth century, and the Romans, though accustomed to many tribes of barbarians, were said to have been more than usually struck with the wild ferocity of these people. They inhabited the flat country constituting modern Hungary, and made frequent incursions into what are now the southern and western provinces of the Austrian empire, at that time Roman provinces. Attila was a famous king of the Huns, and under him the barbarian armies were perpetually harassing the widely-extended provinces of the empire. He extorted enormous subsidies from the feeble emperors, as the price for a cessation of his depredations; but this was a remedy which only fed the disease, and it was not long before he attacked Gaul, Italy, and the more important parts of the empire.

Robertson remarks, that one of the best evidences of the mode in which the barbarians ravaged the invaded countries, was the state of Italy, and other countries, long after that period. Whenever any country is thinly inhabited, trees and shrubs spring up in the uncultivated fields, and spread by degrees into large forests; while, by the overflowing of rivers and the stagnating of waters, other parts of it become converted into lakes and marshes. Ancient Italy had been cultivated to the highest pitch, but so effectually did the devastations of the barbarians destroy all the effects of Roman industry and cultivation, that by the eighth century a considerable part of Italy appears to have been covered with forests and marshes of great extent.

These lamentable details would not occupy a place in our narrative, were it not that the rise of the feudal system was materially influenced by the exterminating policy of

the barbarians. If the inhabitants of the Roman provinces had suffered less by the change, and had been allowed to retain their commerce, their privileges, their social usages, the sub-stratum would have been wanting on which feudalism was founded, and therefore as one step, and an important one, in the progressive changes, these devastations demand our notice. Almost every part of Europe, from Scotland in the north to Italy in the south;—from Thrace in the east to Portugal in the west;—became by degrees overrun with various tribes of barbarians; and the permanent settlement of these tribes in the conquered countries gave rise to the FEUDAL SYSTEM, by steps which will next engage our attention.

CHAPTER II.

ESTABLISHMENT AND DIFFUSION OF THE FEUDAL SYSTEM.

Modes of Partition of the conquered Territories by the Barbarians. Origin of the Feudal System. Meaning of the Term. The Feudal Chief and his Companions. Anecdote of Clovis King of the Franks. Two Modes of Feudal Tenure. Allodial and Feudal Possessions. Practice of Sub-infeudalism.

WHEN the invading tribes settled in a country, those who had been least distinguished for rapine made a partition of the land between themselves and the original possessors; the principle of partition being different in different cases. Thus the Burgundians and the Visigoths took two-thirds of their respective conquests, leaving the remainder to the Roman proprietors; each Burgundian was quartered, under the name of 'guest,' upon one of the former tenants, who occupied the smaller portion of his former estate. The Vandals seized all the best lands in Northern Africa, without any regard to the former inhabitants. The Lombards in Italy took one-third part of the land. The Franks took possession, by public allotment or by private pillage, of a considerable part of the land in France, though it is not now known whether it was a definite and prescribed portion of the whole.

But the possession of a part of the conquered land does not give information as to the mode in which the conquerors shared this portion among themselves; we must look at the nature of the tie which bound them one to another. 'As they had their acquisitions to maintain, not only against such of the ancient inhabitants as had been spared, but against the more formidable inroads of new invaders, self-defence was in the first instance their chief care, and seems to have been the chief object of their first institutions and polity. The ties which bound them one to another had probably not been very stringent in

their own country; but they now saw the necessity of uniting in more close confederacy, and of relinquishing some of their private rights in order to ensure public safety. The portion of land appropriated by the conquerors was, therefore, divided among them, each freeman, upon receiving his share, binding himself to appear in arms when necessary against the enemies of the community; this military service was the condition on which he received and held his land, and such a tenure was deemed honorable and advantageous, since it exempted him from every other burden towards the community. The king or general who had led them to conquest, continuing still to be the head of the colony, had, of course, the largest portion allotted to him. This was the *feudal* arrangement. The grant of land on condition of military service was called a *fief* or a *feud* (from two Gothic words, *od*, 'land' or 'possession;' and *feo*, 'wages,' implying 'wages paid in land,') and it constituted the recipient a *feudatory*, or *vas-sal*, of the chief or superior.

We suppose, in the above instance, that the land had been divided among the chief individuals in the invading army; and such must necessarily have been the case, for it would have been impossible for all alike—the clever and the unskilful, the strong and the weak, the old and the young—to have had equal shares in the distribution; the law of the strongest would prevail, and the most influential men would obtain the largest portion. These two circumstances, the possession of large masses of land by a few individuals, and the comparative poverty of the remainder, led to a farther developement of the feudal system. The leader or general, having the largest portion, possessed the means of rewarding past services, as well as of gaining new adherents, by parcelling out his land with this view; binding those on whom it was bestowed to resort to his standard with a number of men in proportion to the extent of the territory which they received, and to bear arms in his defence. The holders

of these favours were generally well determined on before the conquest was made; for each chief, at least among the German tribes, had a trusty band of chosen companions, who vied with each other in devotion to him wherever war was carried on. While remaining in their own country, these companions, who were called *Comites*, or counts, by the Romans, and *Antrustions* by the Germans, appear to have been rewarded by occasional presents, and the privilege of partaking of the rude hospitality of their chief; but when the conquest was achieved, they received grants out of the chief's portion, and became influential officers of his court.

A remarkable instance of the light in which this division of property or booty in the conquered countries was regarded by the conquerors, is related by one of the early historians. When the Franks were conquering Gaul under their king Clovis, the army, after having plundered a church, carried off a vase of extraordinary size and beauty. The bishops sent deputies to Clovis, beseeching him to restore the vase, that it might be again employed in the sacred services to which it had been consecrated. Clovis desired the deputies to follow him to Soissons, as the booty was to be divided in that place, and promised, that if the lot should give him the disposal of the vase, he would grant what the bishop desired. When he came to Soissons, and all the booty was placed in one great heap in the midst of the army, Clovis entreated that before making the division they would give him that vase over and above his share. All appeared willing to gratify the king, and to comply with his request, when a fierce and haughty soldier lifted up his battle-axe, and striking the vase with the utmost violence, cried out with a loud voice, 'You shall receive nothing here but that to which the lot gives you a right.' We may presume that a similar spirit reigned in the distribution of land, with the exception that the king had a larger share than the others.

It will be seen, from these details, that there must have

been two kinds of feudal tenure ; that which resulted from the original partition of the conquered country, and that which the chief granted out of his own share to his own immediate followers. The former were called *allodial* possessions, from a word signifying 'lot' or 'share.' There were in all the barbarian armies, if armies they may be called, many men who were only a little lower in power and influence than the recognized chief ; and these men took as their *right* a share in the conquered country, without any direct obligation of service, though with an understanding that the owner should join in the defence of the community, when attacked. The *allodium* was thus a much more independent tenure than the *feud*, since the latter was granted as a favour of the chief to his followers, instead of being claimed by them as a right. But in course of time the allodial possessions were found to be less advantageous to the possessors than the feudal. This arose from the disordered state of society, and from the liability to foreign aggression ; for, as the allodial possessors had incurred no obligation of service, so they had no title to protection ; and the violence exercised by powerful individuals, coupled with the danger arising from foreign attack, made it necessary for the weak to seek protection from the strong. Hence, many allodial proprietors surrendered their lands into the hand of some powerful neighbour, to receive them back as feuds, with the condition of allegiance and service imposed upon them, but with a claim for protection. Sometimes a weak and defenceless allodial possessor placed himself under the proprietor of a larger allodium ; sometimes he gave up his land to the chief or king, and became a feudal vassal to him ; and at other times he became the vassal of a vassal, that is, placed himself under the controul and protection of one who had received a feud as a favour from the chief. So much did all men need protection, that the allodial system gradually declined in most of the countries in Europe. In Italy and the north of France the whole land became held by

feudal tenure by about the eighth century; in the south of France a portion remained allodial. In England and Scotland the whole land became feudalized by the tenth century; while in the Low Countries the allodial system continued to be extensively followed.

The spirit of the feudal system became exhibited in a yet more extended degree as the possession became consolidated and secured. The system of *leases* was then not in use; that is, a letting out of land for cultivation at an annual rental; and therefore the owner of a large feud or allodium had not the same means as a modern proprietor possesses of turning his land to account. Hence arose the practice of *sub-infeudation*, the establishment of a feud within a feud; a system which was in some instances voluntary, but in others compulsory on the part of the feudal proprietor. The baron (for this in time became a general title for the more influential feudal proprietors) retained part of the estate for himself, and parcelled out the rest among inferiors, who rendered him the same service as he rendered to the chief or prince; following him in war, contributing to the splendour of his feasts, and attending him when engaged in the civil business of his estate. In proportion to the extent of the feud or property, so did the feudatory parcel out among a greater or smaller number of sub-feudatories; and the larger this number, the more did the feudatory possess a semblance of sovereign authority. There was at first no limit to sub-infeudation, feuds being granted one within or under another; so that a person, besides holding a sub-feud from one who was himself a feudatory to a holder of higher rank, might again parcel out his sub-feud to inferior holders; but after a time certain restrictions were introduced, whereby a sub-feud could not be granted, except to a vassal of the over-lord, or superior feudatory.

CHAPTER III.

THE NATURE OF FEUDALISM;

I. AS RESPECTS THE RELATION BETWEEN BARON AND VASSAL.

The Principle of a Feud or Fief. Mutual Duties of the Lord and his Vassal. Ceremonies observed in conferring a Fief. Homage. Fealty. Investiture. Claims of the Lord over his Vassal. Military Service. Reliefs. Fines. Escheats and Forfeitures. Aids. Wardship and Marriage.

II. THE RELATION BETWEEN THE BARON AND THE STATE.

Privileges of the Barons. Coining Money. Abuses occasioned by this Privilege. Right of Private War. Its Usages. Duties of Kinsmen therein. Exemption from Taxes. Modes of raising Money adopted by the State. Legislative Independence.

I. AS RESPECTS THE RELATION BETWEEN BARON AND VASSAL.

THE feudal system, then, was an arrangement whereby a country was parcelled out into a number of petty sovereignties, domains, or estates, the holders of which generally held an equal rank, and had vassals, or feudal holders under them, who held their lands under certain prescribed conditions. Let us now inquire into the nature of these relations between the feudal lord and his vassal, and between him and the state or nation to which he belonged¹.

The essential principle of a fief was a mutual contract of support and fidelity. Whatever obligations of service it entailed upon the vassal, corresponding duties of protection were imposed by it on the lord towards his vassal. If these were transgressed on either side, the one forfeited his

¹ In this inquiry our first authority is Mr. Hallam, so far as relates to the ceremonies incident to the conferring of the fief, and the usages of which those ceremonies were the symbols.

land, and the other his seigniory over it. Nor were motives of interest the only ties which secured the feudal relation. The 'associations founded upon ancient custom and friendly attachment, the impulses of gratitude and honour, the dread of infamy, the sanctions of religion, were all employed to strengthen these ties, and to render them equally powerful with the relations of nature, and far more so than those of political society.'

The ceremonies observed in conferring a fief, or feud, were principally three: *homage*, *fealty*, and *investiture*. The first was designed as a significant expression of the submission and devotedness of the vassal towards his lord. In performing homage, his head was uncovered, his belt ungirded, his sword and spurs removed; he knelt down, placed his hands between those of his lord, and promised thenceforth to become his *man* (or *homme*, from whence the term *homage*); to serve him with life, and limb, and worldly honour, faithfully and loyally, in consideration of the lands which he held under him. If, as sometimes happened, the vassal made war against his own lord, it was necessary for him previously to renounce, in a formal manner, the homage which he had before given; and if a reconciliation afterwards took place, the homage was renewed. The ceremony of homage generally terminated by the vassal kissing the lord's cheek, and the lord kissing the vassal's mouth. A remnant of this custom is observable in the temporal and spiritual pectorates of England at the present day, where the peers, at the ceremony of the coronation, kiss the cheek of the sovereign, while the bishops do homage for their temporal possessions, which return to the crown on the see being vacant.

The *fealty* was an oath indispensable in every fief; but the ceremony was less peculiar than that of homage, and it might be received by proxy, whereas the homage could be given only by the vassal in person to his suzerain or lord. The object of the fealty was nearly the same as that of homage, but it was expressed by slightly different lan-

guage; and while homage was peculiarly incumbent on the military vassals, ecclesiastics were more accustomed to take the oath of fealty.

The *investiture* was the act or ceremony of placing the vassal in possession of the land. This was done in two different modes. In one of these, the vassal was put in actual possession of the ground either by his lord or by a deputy; whereas, in the other mode, possession was given by means of a symbol, such as a turf, a stone, a wand, a branch, or whatever else might at the time be agreed upon as a symbol by which to represent the land. The laws of various countries as to the transfer of landed property have been a good deal influenced by the feudal usages in this respect; thus in England the procedure partakes more of the first mode, whereas in Scotland there is a symbolical character pertaining to the mode of transfer.

When these three ceremonies were performed, the duties of the vassal towards his lord commenced. Those duties, so far as military service was concerned, were very numerous, and depended a good deal on the state of the country at the time, and on other circumstances. It was a breach of faith to divulge the lord's counsel, to conceal from him the machinations of others, to injure his person or fortune, or to violate the sanctity of his roof, and the honour of his family. In battle he was bound to lend his horse to his lord when dismounted, to adhere to his side while fighting, and to go into captivity as a hostage for him when taken. The amount of military service was generally settled by some usage. Forty days was the usual term, during which the tenant of a 'knight's fee' was bound to be in the field at his own expence. This was afterwards increased to sixty days, unless when the agreement of infeudation expressed a shorter period. The term 'knight's fee' was an attempt to arrive at something like a convenient classification of different feudal estates. Thus every English feudal estate supposed to be of the annual value of twenty pounds, was called a 'knight's fee,' and was made

a standard whereby to regulate the amount of service due from the vassal to his lord. If forty days' military service were equivalent to one knight's fee of land, then all other estates were estimated in due proportion. By degrees a money payment instead of military service was occasionally rendered, and in such case the same rateable proportions were observed. Men turned of sixty, public magistrates, and females, being from different causes unfitted to render military service for fiefs that they might happen to hold, were obliged to procure substitutes.

When the connexion between lord and vassal was thus firmly established, there were certain advantages which were gained by the former, in addition to the military service just alluded to. These were *Reliefs*, *Fines*, *Escheats*, *Aids*, *Wardship*, and *Marriage*; all of which may be noticed in succession.

RELIEFS.

Fiefs, whether depending upon the crown or its vassals, were not originally granted by way of absolute inheritance, but were renewed from time to time upon the death of the possessor, till long custom grew up into right. Hence a sum of money, partaking in some degree of the nature both of a price and a gratuity, would naturally be offered by the heir, on receiving a fresh investiture of the fief; so that in time it became a custom, on the one hand, for the holder of the fief to deem it heritable, and on the other, for the lord to expect a sum of money when the fief passed from one person to another. Such is an opinion which has been offered respecting the origin of certain payments to the lord called 'reliefs;' but Mr. Hallam thinks we are justified in referring it rather to the power and violence of the feudal lords, than to any recognized agreement between lord and vassal. When a feudal tenant died, the lord, taking advantage of his own strength, would take the estate into his own hands, either by the right of force, or under some litigious pretext. Against this violence the heir—if we may

suppose the son of the late possessor to be such—could in general have no resource but a compromise. But whatever be the proper mode of viewing the origin of the ‘relief,’ the relief itself was a sum of money, or other kind of tribute, due from every one of full age taking a fief by descent. The amount was in some countries arbitrary; and the exactions of an unscrupulous lord in this matter ranked among the greatest abuses of the feudal policy. Henry the First of England ordered that the amount should be ‘just and reasonable;’ but in Magna Charta it was distinctly settled at one-fourth the annual value of the fief. In some countries it was arranged that no ‘relief’ should be exacted from a direct heir, but only from one of collateral descent. There is a payment customary in many English manors at the present day, called *heriot*, which seems to have been derived from the ‘relief’ of the earlier feudal system.

FINES.

Fines were paid to the lord on the alienation of his vassal’s feud. The relation between lord and vassal was so peculiar, that although the lord, as being the more powerful of the two, had many opportunities of taking unfair advantage of the vassal, yet neither one could break the tie which bound them without the other’s consent. The payments made when the vassal died were dependent on the degree to which feuds were deemed hereditary, and as this differed in different countries, so did the payments, or ‘reliefs.’ But so long as the vassal lived the tie between him and his lord held good. If, however, the vassal wished from any cause to transfer himself to another lord, the consent of his former lord was necessary, and a payment called a ‘fine’ accompanied the transfer or alienation. In Italy, in Germany, and in Sicily, it was at different times formally laid down that a vassal could not alienate without the consent of his lord. By the law of France the lord was entitled, upon every alienation made by his tenant, either to redeem the fief by paying the purchase-money, or to claim

a certain part of the value, by way of fine upon the change of tenancy.

ESCHEATS AND FORFEITURES.

Wherever any property, be it large or small, is heritable, there must be some law or other to determine the limits of heirship ; and this, under the operation of the feudal system, gave rise to much diversity of custom, in respect to the tenure of the fiefs or feuds. When feuds became hereditary, they descended according to the order of succession pointed out in the grant, or according to some general law of succession prevalent at the time. While Britain remained in the hands of the Anglo-Saxons the possessor of an estate had the power to make a *will*, bequeathing his estate to whom he pleased ; but when the feudal system was in full force, a certain law of inheritance was established, differing in different countries, but stringent so far as it went. In France, for instance, there was a custom called *frerage* ('brother-age'), by which, when the possessor of a feudal estate died, the possession descended to the eldest son, coupled with the condition that he should provide an *apanage*, or a payment in money, for the other children, in proportion to his circumstances. This custom prevailed in respect to the holders of the larger fiefs. Those of smaller rank adopted a different arrangement ; in some places an equal partition was made between the sons of a deceased holder ; in others, the eldest took the chief portion, and received the homage of his brothers for the remaining part, which was divided among them. In this latter case, the eldest brother did homage for all to the lord from whom the fief was held. In different parts of England two modes of inheritance, called *gavel-kind* and *borough-English*, became introduced. *Gavel-kind* was where all the sons inherited alike ; *borough-English* was where the youngest son inherited, from the circumstance of his remaining longest with his father, or of being the most helpless at the father's decease.

But whatever was the mode of inheritance, there was a liability occasionally to the succession failing for want of heirs, and this gave rise to the system of *escheats*. When a vassal died without heirs, or without such heirs as were designated in the grant, the fief *escheated* or passed into the possession of the lord. There were also various cases of *forfeiture*, in which the fief returned to the hands of the lord on other occasions than the failure of heirs. If the vassal committed any act inconsistent with this fealty, his fief was forfeited; if he encroached on land not included within his fief, or if he disclaimed the lord's right and his tenure under him, or if he alienated without the permission of his lord, he forfeited his fief; and indeed where the lord was powerful, he found numerous excuses for pressing hard on the tenant in way of forfeiture.

AIDS.

Aids were another of the advantages which the feudal lord gained by the connexion between him and his vassal. These aids were payments made by the vassal to his lord on various different occasions, depending a good deal on the caprice of the superior. Thus it frequently happened in France that the vassal was called upon to pay aids when his lord went on a crusading expedition, or when he gave his sister or eldest son in marriage. In England the aids were reduced by Magna Charta to three, viz. to make the lord's eldest son a knight, to provide a marriage portion for the lord's eldest daughter, and to redeem the lord's person x from prison. Mr. Hallam considers that these *aids* were the forerunners of modern "taxation," and deserve to be studied in reference thereto.

WARDSHIP AND MARRIAGE.

The powers of the lord in respect to the wardship of infant vassals and the marriage of female vassals, were a very remarkable portion of the feudal system. In Eng-

land, Normandy, and Germany, the lord had the wardship of his tenant during minority. By virtue of this right the lord had both the care of the vassal's person and the profits of the estate. This evidently arose from the peculiar character of feudalism, since none was deemed so fit as the lord to train up his vassal to arms; and none could put in so good a claim to enjoy the fief, while the military service for which it had been granted was suspended. In France, the custody of the land was entrusted to the next heir, while the guardianship of the person was entrusted to the nearest kindred of that blood which could not inherit. In England, when all the better parts of the feudal system had outlived their day, and their abuses yet remained, the guardianship or wardship of infant vassals was given over to strangers on payment of a fee or gratuity; a custom which, under the name of 'guardianship in chivalry,' was the source of sore vexations.

The marriage of female vassals was in like manner made a source of increased power and influence to the lord. If the ward were a female, the lord had the right to give her away in marriage, and receive a price for the match; or, if the ward refused the proposed alliance, then to receive as much for the estate as any party would have given for the match. This rule was afterwards extended to male wards, and became a very lucrative source of extortion to the superior. In respect of female wards, in a time when morality was but little cultivated, this controul of the lord was exerted in a manner which often outraged propriety and justice, especially in some parts of France, Germany, and Scotland. While Jerusalem was held by a kind of feudal tenure under the Crusaders, the regulations in this respect were very curious. The lord might summon any female vassal to accept one of three persons whom he should propose as her husband. No other condition seems to have been imposed on him in selecting these suitors, than that they should be of equal

rank with herself. 'Neither the maiden's coyness, nor the widow's affliction, neither aversion to the proffered candidate, nor love to one more favoured, seem to have passed as legitimate excuses. One, only one plea could come from the lady's mouth who was resolute to hold her land in single blessedness; it was, that she was past sixty years of age, and after this unwelcome confession, the lord was not permitted to urge his command.'

We shall have to speak hereafter of various other arrangements by which the relation between lord and vassal were made conducive to the interests and the ambition of the former. We will therefore now pass on to

II. THE RELATION BETWEEN THE BARON AND THE STATE.

THERE were three or four remarkable privileges possessed by the barons to a greater or less degree, which were utterly inconsistent with the idea we now form of a state or national government, and which shews that each country at that time was in effect a group of petty governments. These privileges had relation principally to *coining money, waging private war, exemption from taxes, and legislative independence.*

COINING MONEY.

In the early ages of the French monarchy, although gold and silver were known as media of exchange, yet they were employed for this purpose rather by weight than as stamped and authorized coins. An ounce of gold or of silver was deemed to be worth a certain weight of some other marketable commodity, and the one was exchangeable for the other. The object of coining, in governments in general, has been generally of a two-fold character—to ensure the purity and just weight of the metal employed—and to give the government a controul over the circulating medium; the latter object being often made the means of nefarious projects on the part of unscrupu-

lous monarchs. In some cities of France, money appears to have been coined by private authority before the time of Charlemagne; this is rendered probable by an order made by him forbidding the circulation of any coin that had not been stamped in the royal mint. The successors of Charlemagne granted to some of their vassals the privilege of coining money for the use of their own estates or territories, but not without the royal stamp. About the year A.D. 900 the feudal lords had acquired such an amount of power that they began to assume independence in this matter, by coining money with no stamp but their own. In the reign of Hugh Capet there were said to be a hundred and fifty royal vassals or feudal nobles who exercised this privilege; they excluded as far as possible the circulation of the royal coin, and enriched themselves at their subjects' expense by imposing high duties called 'seigniorages' on the issue of new coin, as well as by debasing its standard. A most instructive instance of the power of the nobles was given in the year 1185, when Philip Augustus, king of France, *requested* the Abbot of Corv  y, (for there were ecclesiastics as well as soldiers possessed of fends) who had desisted from using his own mint, to let the royal money of Paris circulate through his territories; promising that when it should please the abbot to coin money afresh for himself, the king would not oppose its circulation.

Louis the Eleventh, who was a talented, though unprincipled monarch, attempted to limit the exercise of this baronial privilege. He enacted that the royal money should circulate in the domains of those barons who had mints concurrently with their own, and exclusively within the territories of those who did not enjoy that right. Another monarch, Philip the Fair, established royal officers of inspection in every mint. The adulteration practised in the baronial mints had reduced the silver coin to such a disgraceful state, it having very much more copper than silver in its composition, that a prohibition to the further coining

of silver money was issued. Among the numerous evidences of the different forms which feudalism assumed in different countries, it may be mentioned, that in England no feudal barons ever enjoyed the right of coining silver without the royal stamp and superintendence.

PRIVATE WAR.

‘The passion of revenge,’ says Mr. Hallam, ‘always among the most ungovernable in human nature, acts with such violence among barbarians, that it is utterly beyond the control of their imperfect arrangements of polity. It seems to them no part of the social compact to sacrifice the privilege which nature has placed in the arm of valour. Gradually, however, these fiercer feelings are blunted, and another passion, hardly less powerful than resentment, is brought to play in a contrary direction. The earlier object accordingly of jurisprudence is to establish a fixed atonement for injuries, as much for the preservation of tranquillity, as the prevention of crime.’ How this principle of compensation became developed from the customs of the barbarous conquerors of Europe, we shall explain in a future page; but the barons were little inclined to acquiesce in it when at the zenith of their power. Private ‘feuds,’ or quarrels between different feudal barons, were perpetually occurring, and many of Charlemagne’s capitularies are directed against them. After his time, all hope of restraining so inveterate a practice was at an end, and every man who owned a castle to shelter him in case of defeat, and a sufficient number of dependents to take the field, was at liberty to retaliate upon his neighbours whenever he thought himself injured.

Robertson gives a very clear account of the usages incident to private war; for these usages were gradually formed into a recognised system, and may be regarded as a code of jurisprudence, or rather as a substitute for such a code. None but gentlemen, or persons of noble birth, had the right of private war. All disputes between slaves, villeins,

the inhabitants of towns, and freemen of inferior conditions, were decided in the courts of justice, as were likewise all disputes between gentlemen on the one side, and persons of inferior rank on the other. The right of private war supposed nobility of birth and equality of rank in both the contending parties. The dignified ecclesiastics also claimed and exercised the right of private war; but as it was not deemed altogether decorous for them to prosecute quarrels in person, they employed the services of champions, under the designation of *advocati*, or *vidames*. These champions were commonly men of high rank and reputation, who became the protectors of the churches and convents by which they were elected, espousing their quarrels and fighting their battles; although it sometimes happened that the martial ideas of the ecclesiastics made them forget the pacific spirit of their profession, and led them into the field in person at the head of their vassals.

It was not every injury or trespass that gave a gentleman a title to make war upon his adversary. Atrocious acts of violence, insults and affronts publicly committed, were legal and permitted motives for taking up arms against the authors of them. Such crimes as are now punished capitally in civilized nations were permitted at that time to justify private hostilities. But though the avenging of injuries was the only motive that could legally authorise a private war, yet disputes concerning civil property often gave rise to hostilities, and were terminated by the sword. When any quarrel arose, or any act of violence was committed, all persons present were included in the war which it occasioned; for it was supposed to be impossible for any man in such a situation to remain neutral, and not take part with one or the other of the contending parties. All the kindred of the two principals in the war were included in it, and were obliged to espouse the quarrel of the chieftain with whom they were connected. This obligation was even enforced by legal authority; for if a person refused to take part in the quarrel of his kinsman, and to aid him against

the adversary, he was deemed to have renounced all the rights and privileges of kinsmanship, and to have become incapable of succeeding to any of his relations, or of deriving any benefit from any civil right or property belonging to them. The method of ascertaining the degree of affinity which obliged a person to take part in the quarrel of a kinsman was remarkable. The circle throughout which this community of duty extended depended on the ecclesiastical laws relating to marriage. When the church prohibited the marriage of persons related within the seventh degree, then all relations within the seventh degree were involved in the quarrel of their feudal relative; but when the church limited the consanguinity to the fourth degree, the quarrel-circle, if we may coin such a term, was similarly limited. A private war could not be carried on between two full brothers, because both had the same common kindred, and consequently neither had any persons bound to stand by him against the other in the contest; but two brothers of the half-blood might wage war, because each of them had a distinct kindred. The vassals of each principal, in any private war, were involved in the contest, because by the feudal maxims they were bound to take arms in defence of the chieftain of whom they held, and to assist him in every quarrel; as soon, therefore, as feudal tenures were introduced, and this artificial connexion was established between the baron and the vassal, vassals came to be considered in the same state with relations, so far as concerned private war.

EXEMPTION FROM TAXES.

When the feudal system was at its height, the modern practice of every one, high and low, contributing towards the expenses of carrying on the government, was not acted on. Kings and barons all collected together such wealth as was at command, generally by virtue of the strong arm, without following any recognized and well-ordered plan. The kings of France and of Lombardy supplied the com-

mon expenses of their courts from their demesne lands; and even Charlemagne, powerful as he was, was necessitated to regulate the economy of his farms with the most minute attention. The main portion of their revenue was derived from free gifts made at the annual assemblies of the nation, from amercements paid by allodial possessors for default of military service, and from certain fines accruing in respect to judicial proceedings. When the feudal government prevailed in France, there seems to have been hardly any source of regular revenue besides the demesne estates of the crown. It was, perhaps, quite as much from poverty as from tyranny, that the king acquired a kind of prescriptive right, during a journey, to be supplied with necessaries by the towns and abbeys which he visited.

By debasing the coin, and by other indirect means, the kings, according to their power, increased their revenues, and also by exactions from the Jews; that remarkable people who were made the object of persecution among nearly all the nations of Europe. But these resources of government by no means superseded the necessity of more direct taxation. The kings of France exacted money from the farmers and inhabitants of towns within their domains, and in so doing they only acted as proprietors; for the barons took the same course in their own lands. Philip Augustus was one of the first monarchs who ventured on a wider grasp of kingly power. He deprived both his own vassals and their feudal tenants of a third part of their goods; but this arbitrary mode of taxing the feudal lords was not repeated; the feudal system was too strong for the monarchy in this respect, and his successors generally pursued a more cautious plan. Upon obtaining any contribution it was usual to grant letters patent declaring that it had been freely given, and was not to be adopted as a precedent at any subsequent period. Several of such letters are still extant, and afford evidence of the power of the feudal nobles to prevent taxation from falling upon themselves.

LEGISLATIVE INDEPENDENCE.

The feudal barons in many cases possessed a power so nearly allied to that of sovereignty, that the control of the real sovereign over them was extremely slight. It was not exactly a number of equals all struggling to obtain the mastery over each other, but a number of men subordinate to the monarch, and yet so powerful, that each was practically a monarch in his own domain. In legislative matters, therefore, the policy of a nation did not exhibit a combined and uniform system, but a collection of codes almost as numerous as the feudal barons themselves. The elucidation of this subject, however, will come more properly in a future page.

CHAPTER IV.

GRADATIONS OF RANK RESULTING FROM FEUDALISM.

Serfs. Their miserable condition as Domestic Slaves. Their Origin. Voluntary Vassalage. Villeins. Their Origin. Distinctions between them and Serfs. Manumission of Serfs and Villeins. Beneficent Influence of Christianity. Free-men. Establishment of the 'Court-Baron.' Origin of 'Freehold' and 'Copyhold' Tenure. The Nobles. Their Origin. Origin of the terms 'Duke' and 'Count.' Privileges of the Nobles. Sirnames and Armorial Bearings. Restrictions with reference to Rank and Gentility. Gradations in Rank. General Respect paid to the Nobility,

ONE of the many usages of civilized society, which we owe in a great measure to the feudal system, was the institution of *nobility*, or ranks and grades independently of the wealth or personal merit of the individual. Something of this kind has always existed; but under the feudal system it acquired an extent and stability which have brought it down to our own times. All our terms of rank, such as Duke, Marquis, Count, Viscount, Earl, Lord, Baron, Marshal, Baronet, Knight, Esquire, &c.—either originated in, or became extended by feudalism. Before the condition of the privileged classes can be understood, it will be necessary to speak of the humbler.

During the ages when the feudal system prevailed, and when all allusions to agriculture and productive industry are extremely brief, as if such occupations were beneath the notice of honorable men, the cultivation of the ground was left to three classes of men, namely, *serfs*, *villeins*, and *free-men*, each of which was governed by peculiar laws, arising out of the existing state of society.

SERFS.

The serfs or slaves of the feudal barons appear to have been in nearly as wretched a condition as any which have attracted notice in later ages. Their masters had absolute dominion over their persons, and the power of punishing them capitally without the intervention of any judge. They possessed this dangerous right, not only in the more early periods, when their manners were fierce, but they continued to exercise it so late as the twelfth century; and even after this jurisdiction of masters came to be restrained, the life of a slave was deemed to be of so little value, that only a very slight compensation was made for having taken it away. In every case the punishment inflicted on a serf was very much more severe than that suffered by a free-man for a similar crime. In the earlier phases of the system, the serfs were not allowed to marry; but after a time this law was relaxed, and they were permitted to marry on obtaining their master's consent. Serfs were so entirely the property of their masters, that they could sell them at pleasure. While this domestic slavery continued, property in a slave was sold in the same manner as any article of value. Serfs were distinguished from free-men by a peculiar dress. Among all the barbarous nations, long hair was a mark of dignity and freedom; slaves were for that reason obliged to shave their heads; and by this distinction they were reminded every moment of the inferiority of their condition.

The mode by which the degradation of slavery became engrafted on the feudal system, we learn from the details given by a distinguished writer on 'Political Philosophy.' Before the irruptions of the barbarians into the Roman Empire, the legal right and practice was established of holding persons in absolute slavery; so that the element was pre-existing for the formation of slavery in after times. Among the barbarians themselves, too, in their own countries, the same seems to have been the case. There were domestic slaves among them, although the slavery seems not to have been so oppressive as among the feudal usages

of a later age. These slaves were procured under many different circumstances. Captives made in war; persons who urged by poverty sold themselves, or were sold by their parents; convicts condemned to the payment of fines, and made slaves in default; gamesters who staked their personal liberty on the issue of play—all these classes increased the number of serfs among these rude nations. The conquest of a district, or a revolt, or some general act of violence, often caused whole tribes or nations to be made serfs, unless they could ransom themselves.

When the barbarians became the conquerors of Europe, the serfage or slavery established among themselves, coupled with that which existed previously in the conquered provinces, gave rise to the serfage of feudalism, just spoken of. It is probable that both these classes of serfs—that is, the Roman serfs and the barbarian serfs—became to a greater or less degree serfs under the feudal system; and there were causes in operation which brought other persons into the same condition. In times of rapine and violence, when the weak found it highly desirable to obtain protection from the strong, some allodial proprietors voluntarily made themselves vassals to a neighbouring powerful baron; and others gave a certain money-payment, called *salvamenta* or *salvage*, for this protection. But those who were very poor became serfs to such as would not be content with mere allegiance, or with occasional service. Many, too, parted with their liberty to monasteries and churches, in return for their prayers and masses. The land was so completely parcelled out into feudal tenures, that it became a maxim—‘*Nulle terre sans seigneur*’—‘*No land without a lord* ;’ and almost every one was either a vassal in respect of his land, or a serf in respect of his person.

As the wealth of a country consisted principally in its land, land became a universal object of desire; and a proprietor, desiring to retain the services of any one, gave him a rent issuing out of his land. This constituted him a vassal, and gave rise to a species of feudal tenure rather dif-

ferent from that which at an earlier age had its origin in military service. The same system, in a minor degree, caused the establishment of a body of domestic serfs, who were less severely treated than others. In order to obtain inferior services, serfs were settled on small portions of land in the neighbourhood of the lord's residence, the allotments being held at will by the serfs, whom the lord could at any moment dispossess. But this kind of tenure ended in consequences not at first contemplated. As the servitude of these voluntary serfs could only last as long as they held the land, that is, as the lord could not command the services of these serfs any longer than they remained in possession, the tenure gradually acquired a kind of hereditary character. The lord, probably, could no more do without the serfs, than they without a protector; and thus the connexion between them became gradually more permanent. No uniform rule, however, was established as to these rights or permissions. Different lords gave different rights, and established different modes of succession or inheritance; the modes of alienation by conveyance, or by will, and the fines paid upon descent or alienation, also varied in different fiefs.

In every case, however, some service was exacted by the lord, in return for the tenure thus secured; and this service was always of an inferior or humble kind, marking a broad distinction between the feudal *serf* who held by virtue of some humble personal service, and the feudal *vassal* who held as a return for military service. In the course of time, these domestic serfs—although their condition was so comparatively favourable, that we can hardly with propriety apply the term serf to them—became what are now termed *copyholders*, the system on which they hold their small patches of land being in some degree analogous to the copyhold tenure.

VILLEINS.

Serfs and Villeins, although often confounded or mistaken, were of different grades. Originally the serfs were

wholly the lord's property, and could be sold by him unconditionally. They had a title to nothing but subsistence and clothes from their master; all the profits of their labour belonged to him. If the master, from any indulgence, gave his serfs any fixed allowance for their subsistence, they had no right of property in their savings out of such allowance: all that they accumulated belonged to their master, as well as their effects after death.

But the villeins occupied a somewhat higher position. They belonged rather to the feud or estate, than to the holder of the estate; for though they were sold with it and could not leave it, yet they could not be sold apart from it. Hence the name of *villeins*, *villains*, or *villani*, the inhabitants of a 'ville,' or district. The modern term of reproach, 'villain,' is evidently derived from the contempt in which these humble individuals are supposed to have been held, in consequence of their dependent condition; but the dishonest or immoral meaning of the term is a modern extension. Many of those who were in the first instance serfs, became villeins by the grant of small patches of land, in the manner already mentioned; and from the time that such changes commenced, the term serf or slave, used in its strictest sense, became no longer applicable: a serf was the absolute property of his master, and as such could be sold unreservedly to any purchaser; but a villein, though not greatly above the condition of a serf as to actual employments, yet having a kind of interest in a small portion of land, could pretend to some civil rights. Nearly all the serfs gradually became villeins, and nearly all the villeins acquired that kind of tenure, which, extending down to our own times, has given rise to the term *copyhold*. The means whereby the villeins shook off the last semblance of slavery, were different in different countries. Many purchased their freedom, when they had accumulated a little wealth from their patches of land; some obtained their freedom by military services; while some masters were encouraged by the church to emancipate

their villeins. In Italy, villeinage existed till the fifteenth century; in Germany it became extinguished at different times in the different states; in England there were remnants of it till the time of James I.; in Scotland there was something of the kind traceable down to the reign of George III.; in France it was not finally abrogated till the time of the Revolution; in Denmark it was legally abolished only a few years ago; and in Russia it is in full force at the present moment.

The circumstances attending the manumission of serfs and villeins, particularly the former, throw much light on the improved manners which gradually prevailed, even in the dark period of the middle ages. Notwithstanding the corrupt state of the church at that time, the mild and beneficent doctrines of christianity were silently working their way. The lessons which it imparts concerning the original equality of mankind, and the impartiality with which the Almighty regards men of every condition, are inconsistent with the existence of slavery; and this truth gradually produced conviction on the minds of the great feudal lords. The grievances of serfage, such as have been already detailed, gradually disappeared under the mild influences of christianity; so that the liberation of a fellow-christian from servitude came to be regarded as an act of piety highly meritorious and acceptable to heaven. The formality of manumission was executed in a church, as a religious ceremony. The person to be set free was led round the great altar with a torch in his hand, and when he had taken hold of the horns of the altar, solemn words conferring liberty were pronounced. Manumission was frequently granted on a death-bed, or by will. Another method of obtaining liberty was by entering into holy orders, or taking the vow in a nunnery. This was permitted for some time; but so many serfs escaped by this means out of the hand of their masters, that the practice was afterwards restrained, and at last prohibited. Princes, on the birth of a son, or upon any other great event, appointed

a certain number of slaves to be enfranchised, as a testimony of gratitude to God. Many of the more unscrupulous nobles, who were not affected by the pious motives that actuated others, regarded the manumission of serfs as a pernicious innovation, and exerted all their influence to discourage the custom.

FREEMEN.

The third class of persons who cultivated the land was that of *freemen*. They were distinguished by various appellations; but they appear to have been persons who possessed some small allodial property, and besides that, cultivated a farm belonging to some of their more wealthy neighbours, for which they paid a fixed rent; and bound themselves likewise to render sundry small services, such as ploughing a certain quantity of their landlord's ground, and assisting him in harvest and vintage. It has been made a matter of question among writers, whether these freemen were removable at pleasure, or whether they held their farms by lease, for a certain number of years. But at any rate they were considered as freemen, in the fullest sense of the term, enjoying all the privileges of that condition. Military services were considered in those days so honourable, that it was deemed a privilege to the freemen that they might be called to serve in war; serfs being inadmissible to this honour.

Yet, although freemen seem thus to have possessed such great advantages over the serfs and villeins, so overbearing was the spirit of tyranny which prevailed among the great proprietors of land, and so various their opportunities of oppressing those who were settled on their estates, that many freemen renounced their liberty in despair, and voluntarily surrendered themselves as serfs to their powerful masters; this they did, in order that their masters might become more immediately interested in affording them protection and subsistence. But those who retained their freedom and independence, connected with their lord by a tie

which was honourable enough if he did not overstep his bounds, became the forerunners of the modern *freeholders*. The freemen formed the lord's court or 'court baron;' and held possession of their land by formal grant or charter. The terms of this grant could not be summarily broken by the lord; and the grant itself formed the *freehold* tenure; whereas the villeins, who belonged not to the higher court baron, held their land by an entry made in the books of the manor, of which entry the steward gave them a copy as their title; and hence the use of the term *copyhold* tenure.

NOBILITY.

From the very nature of the feudal system, it seemed to follow as a necessary consequence that war and agriculture were the chief objects of men's attention; the former as the means of obtaining rank, power, and wealth, and the latter as a source of food. As agriculture was deemed a debasing occupation, and left to serfs and villeins, so was war deemed an honourable one, and made the source of desirable advantages. The origin of *nobility*, and of ranks and grades in general, as at present observed in society, has been traced by Hallam and others mainly to the feudal times, and may now come under our notice. No proper aristocracy, except that of wealth, was known in the early stages of the feudal system. The possessors of fiefs were usually the richest and most conspicuous individuals in the state. Under the early kings of France, the chief feudal holders were crown vassals, and were thus partakers in the exercise of justice and the royal councils. Their sons next came to inherit this eminent station; and as these fiefs were either inalienable, or at least not very frequently alienated, rich families were kept long in sight; and whether engaged in public affairs, or living with magnificence and hospitality at home, naturally acquired to themselves a kind of superiority in the estimation of others. Each crown vassal received the name of *count*, in virtue of the fief he held, the fief itself being designated a county or *compté*; while the

title of *duke*, being derived from the Latin name for a chief leader, or commander, had evident relation to the military condition of the persons who first received it. It would seem therefore not improbable that those feuds which were held by right, consequent on the partition among powerful leaders soon after the conquest of the provinces, were the source of the 'dukes' and 'dukedom' of later times; while those which were voluntarily granted by the sovereign or chief out of his own estate, with a view to gather round him a body of vassals, gave origin to the terms 'count' and 'county.'

These dukes and counts were at the head of the class known as nobles; and in imitation of them their own vassals, as well as those of the crown, and even rich allodialists, assumed titles from their terms or castles; and thus arose a number of petty counts, viscounts, and barons. This distinct class of nobility became co-existent with the feudal tenures; for the military tenant, however poor, was subject to no tribute but service in the field; he was the companion of his lord in the sports and feasting of his castle, the peer of his court; he fought on horseback, and was clad in the coat of mail; while the commonalty, if summoned at all to war, came on foot and with no armour of defence. As everything in the habits of society combined to strengthen that prejudice which looks up to the profession of arms as one pre-eminently distinguished, it was a natural consequence that a new species of aristocracy, founded upon the mixed motives of birth, tenure of estate, and occupation, should spring out of the feudal system. Every possessor of a fief was deemed a gentleman, though he owned but a few acres of land, and furnished his slender contribution towards the equipment of a knight.

An attempt was gradually made to institute degrees of rank by gentility of blood only, without reference to the possession of estates; and *surnames* and *armorial bearings* were instituted as the symbols for representing them. It was about the eleventh century when the nobility began

to add the names of their estates to their own ; or if they had acquired by any means a distinctive appellation, they became desirous to transmit it to their successors. Armorial bearings may to a certain extent be traced to the emblems used on the shield of the early warriors, and to the devices upon coins or seals ; but the general introduction of rank bearings, as hereditary distinctions, has also been attributed to the fanciful devices used by the champions at tournaments, or by the crusaders on their banners. All these sources probably contributed to the effect. Hereditary armorial bearings were not much used by private families before the beginning of the thirteenth century ; but after that period their use became very general.

When the privileges of birth had been thus established, and represented by definite symbols, the distinction between the noble and the ignoble became almost as great as between the rich and the poor, or the free and the enslaved. All offices of trust and power were conferred on men of noble birth, with the exception of those pertaining to the legal profession. When the system was at its height, a man of mean birth could not possess a fief ; but this rule became afterward relaxed. In some cases they were permitted to become noble by the acquisition of land ; but this kind of nobility was always subjected to certain drawbacks intended to mark a distinction between it and the nobility which originated in high birth. A gentleman in France or Germany could not exercise any trade, with some rare exception in relation to the liberal arts and foreign commerce, without losing the advantages of his rank. It was in marriages especially that this exclusive system manifested itself. No children could inherit a territory held immediately of the emperor unless both their parents belonged to the higher class of nobility. In France, if a noble married beneath his rank, his children were reputed noble for the purposes of inheritance, and of exemption from tribute ; but they could not be received into any order of chivalry, though capable of simple knighthood ; and they

were always considered as being deeply tainted by the inferiority of their mother's condition.

But these gradations in rank were modified according as the sovereign exerted the power of conferring honours and dignities at his own discretion. In early times the feud or estate was given as the price of fealty or military service ; but the kings found a cheaper way of purchasing such services, by paying for them in honours and titles. On the first introduction of this modified system, when service was obtained in return for other advantages than land, the feudal relation became extended to various kinds of property, such as rents, tolls, pensions, tithes, and offices ; all of which were made the subject of feudal grant, and were in fact the wages paid for military service. Even perquisites of the priests for saying mass were sometimes converted into a feud as means of obtaining the military protection of some powerful baron. From these various sources, it is not difficult to see how honours, titles, and particular offices, might become a condition of vassalage or service. In nearly all the European states the king or prince gradually assumed the power of granting 'patents' or 'letters of nobility,' conferring on the person who received them, and generally on his heir also, the same rights and rank which he would have enjoyed had he become a feudatory or baron, holding under the crown ; and as the strictness of the feudal system became more relaxed, and commerce introduced wealth among other classes as well as the feudal lords, this practice became more frequent.

The jealous care with which all these grades and titles of honour were guarded, and the marked limits which separated the various classes of society, caused each grade to look up with a kind of reverence to the one next above it, especially in those ranks of society where the one party possessed land and the other none. The indications of this feeling are well represented in the following remarks. 'Homage and fealty were held to be creditable, and men

vied with each other in pursuit of their master's favour,—as they had others, their inferiors, who were equally rivals for their own smiles. The staple occupation of all being arms, and the currency in which all service was rewarded being land, tended still more to keep up an idea of personal dignity even in those who most submissively obeyed their chief; for the possession of land gave a kind of establishment to each vassal, and the profession of arms, with its dangers, raised him in estimation, and covered the subordination of the condition in which it was exercised. Hence the most menial offices connected with allegiance and with service were not only not despised—they became objects of ambition. The sons of vassals in the easiest circumstances were honoured by being made the foot-boys or pages of the lord's wife or daughter; at a maturer age, they were distinguished by becoming the squires or military servants of the lord or his son. Barons of a higher importance had their cup-bearers, their butlers, their farriers, the chiefs of their stables or horse, the stewards of their house, the superintendents of their chambers—and those vassals were the most fortunate who could obtain for themselves such employments. In all the feudal kingdoms, those places in the prince's household were filled by the most powerful and famed of the lords; and to this day the highest rank is assigned in the different European states to those who are the royal chamberlain, steward, and master of the horse.

.....From the extreme value set upon distinctions by the barons, as well as from the influence which they usurped and employed to obtain more substantial benefits, it resulted that many of the greatest offices in all countries were obtained by them from the crown as hereditary possessions, and passed from father to son like landed estates. They were regarded and treated as fiefs or feuds, and became subject to the incidents of feudal tenure. Thus, the place of cup-bearer to the king was hereditary in one family—of standard-bearer in another—of chamberlain in another. Indeed, by a singular accident, in England the

chamberlain of the king's household is a removable office. But offices of far more importance became the subject of feudal grant, and conferred hereditary power as well as influence. In England we have an hereditary earl-marshal, who was originally commander of the forces, and in one county (Westmoreland) an hereditary sheriff—the grant of the latter office having been made by king John; while in Scotland not only were almost all the shrievalties hereditary, but the chief criminal judge of the kingdom belonged to one family, that of Argyle, until the reign of George II.'

CHAPTER V.

NATURE OF FEUDALISM ;

I. IN RELATION TO LEGISLATIVE AND JUDICIAL PROCEEDINGS.

System of Government among the ancient Germans. Influence of the Chiefs. Jurisdiction of the Magistrate. Origin of a Legal Code. Origin of the Judicial Power of the Barons. Its extent and importance. Circumscribed Jurisdiction of the Royal Judges. Forms of Feudal Jurisprudence. Trial by Battle. Customs and Ceremonies connected therewith. Details of the Trial by Battle. Trial by Ordeal. FEUDAL GOVERNMENT. Assemblies or Parliaments of the ancient Germans. The same under Clovis and Charlemagne. Assemblies of the Lombards. The Capitularies of Charlemagne. Government under Charlemagne's successors.

IN considering the nature of the feudal system, a question soon arises as to the mode in which justice was dispensed between man and man, in all matters where private property or personal safety was endangered. The field of battle might decide large and complex quarrels, in which states were concerned, and the rights of private war might terminate the contests of individual nobles ; but the mass of the people, and even the nobles themselves, required some other mode of settling their disputes ; they required, in fact, a code of laws based upon fixed and recognised principles. We therefore proceed to notice the feudal system in relation to legislative and judicial proceedings ; and it will be found that this is one of the most important aspects under which it can be regarded, since it influenced not only the condition of society at the time, but also the usages which have been handed down to subsequent ages. The selection of the persons who should frame the laws, the determination of the laws to be framed, and the mode of putting them in execution, form three connected links, which cannot well be considered separately. It will therefore be desirable to

trace in what respect the customs of the barbarians, in these matters, led to the establishment of law institutions in the countries governed.

The system of government among the Germans, who conquered so many provinces of the Roman empire, was rude and simple. The mode by which men joined in one common interest was such, that they relinquished scarcely any portion of their natural individual independence. The authority of the civil government was very limited; for during times of peace there was no common or fixed magistrate, but the chief men of every district dispensed justice and accommodated differences. The power of the kings or chiefs was by no means absolute; their authority consisting rather in the privilege of advising, than in the power of commanding. Minor matters were determined by the chief men; affairs of importance by the whole community. Every individual among the ancient Germans was left at liberty to choose whether he would take part in any military enterprise which was proposed, no obligation being imposed upon him by public authority in respect to his engaging in it; but if, when any of the chief men had proposed an expedition, others offered to follow, and then failed so to do, they were deemed deserters and traitors, and were regarded as infamous. As every individual was to so great a degree independent, it became of importance to every person among the Germans, who aimed at being a leader, to gain adherents, and attach them to his person and interests; and the chief distinction and power of the leaders consisted in being attended by a numerous band of chosen youth. These adherents were regarded as an ornament in times of peace, and a defence in time of war; and the leaders gained or preserved the fidelity of these retainers by presents of armour, and of horses, or by profuse hospitality. Here we see very distinctly the source of the *vassalage* of after times, when a feudal chief, baron, or prince, gave lands, offices, honours, or privileges, to a body of retainers who would fight for him in war, and form his court in peaceful times.

It is an exhibition of the love of authority which is so deeply implanted in all men, and which only waits for favourable opportunities for shewing itself.

A natural consequence of the personal liberty and independence of the Germans, was their circumscribing the criminal jurisdiction of the magistrate within very narrow limits, and not only claiming, but exercising almost all the rights of private resentment and revenge. Their magistrates had not the power either of imprisoning or of inflicting any corporal punishment on a free man. Every person was obliged to avenge the wrongs which his parents or friends had sustained; a custom evidently traceable in the right of private war before alluded to.

The steps whereby something like a system of laws was gradually established, have been traced by Robertson somewhat in the following manner. So long as the barbarians, individually, retained the power of punishing those who injured or offended them, and of demanding the aid of their families and retainers in so doing, many of the fiercer passions remained wholly unchecked, and the excesses which this occasioned proved so destructive of peace and order in society, as to render it necessary to devise some remedy. The payment of a fine, by way of satisfaction to the person or family injured, was the first device of a rude people, in order to check the career of private resentment, and to extinguish the deadly 'feuds,' or quarrels, which were prosecuted among them with such violence. At first these fines were settled by voluntary-agreement between the parties at variance, a 'composition' being accepted by one party, and given by the other, as an equivalent for the injury done. As the two parties, however, could not always agree respecting the proper amount of this equivalent, a second advance was made towards legislation by the choice of *arbiters*, who endeavoured to decide on the most just and equitable compensation for the injury sustained. But as submission to persons who had no legal or magisterial authority was altogether voluntary, it became necessary to

establish judges, with power sufficient to enforce their own decisions. The leader whom they were accustomed to follow and to obey, whose courage they respected, and in whose integrity they placed confidence, was the person to whom a martial people naturally committed this important prerogative. This therefore gave rise to a third stage in the progress. Every chieftain became not only the commander of his tribe in war, but also its judge in peace. As soon as this important change was introduced, the magistrate, putting himself in the place of the person injured, ascertained the composition with which the latter ought to remain satisfied. Every possible injury that could occur in the intercourse of civil society, was considered and estimated, and the compositions due to the person aggrieved were fixed with the most minute attention. After a time, too, a certain sum was paid to the judge, or chief, for his trouble in making the award.

Let us next see how this regulation operated when the barbarians became settled in the conquered lands. As each barbarian chief became a feudal chief, and became the progenitor of the barons and nobles of later times, so he brought with him the right or power of being an arbiter or judge in his own territory ; for it was not a king over many tribes that was thus regarded, but the chief over each tribe, independent of the others ; and when we substitute the word *fief* for *tribe*, the same system may be subsequently traced. As every chieftain of a tribe had commanded them in war, and judged them in peace ; so every feudal baron afterwards led his vassals to the field, and administered justice to them in his hall, receiving a remuneration, or fee, for every dispute which he settled in his capacity as judge.

In this way, by the natural operation of circumstances peculiar to the manners, or political state, of the feudal nations, separate and territorial jurisdictions came not only to be established in every kingdom, but were so established, that the interest of the barons concurred with their ambition, in maintaining and extending them. It was not

merely a point of honour with the feudal nobles to dispense justice to their vassals ; but from the exercise of that power arose one capital branch of their revenue, and the emoluments of their courts were frequently the main support of their dignity, so that they asserted and defended this high privilege with great zeal. But by the operation of this system, every kingdom in Europe became severed into as many separate principalities as it contained powerful barons. Their vassals, whether in peace or in war, were hardly sensible of any authority but that of their superior lord ; they felt themselves subject to no other command, and they were amenable to no other jurisdiction. Thus the ties which united these smaller confederacies became close and firm, while the bonds of public union were relaxed, or even dissolved. The nobles strained their invention in devising regulations which tended to ascertain and perpetuate this distinction. In order to guard against any appearance of subordination in their courts to those of the crown, they frequently constrained their monarchs to prohibit the royal judges from entering their territories, or from claiming any jurisdiction therein ; and if, either through mistake or a spirit of encroachment, any royal judge ventured to extend his authority to the vassals of a baron, they might plead their right of exemption, and the lord of whom they held their fief could not only rescue them out of his hands, but was entitled to legal reparation for the injury, real or supposed, and the affront thus offered to him. The jurisdiction of the royal judges scarcely extended beyond the narrow limits of the king's demesnes. Instead of a regular gradation of courts, all acknowledging the authority of the same general laws, and looking up to these as the guides of their decisions, there were in every feudal kingdom a number of independent tribunals, the proceedings of which were directed by local customs and contradictory forms. - The collision of jurisdiction among these different courts often retarded the execution of justice ; and the variety and caprice of their modes of procedure prevented the adminis-

tration of it from attaining any degree of uniformity or perfection.

One of the most remarkable usages connected with feudal jurisprudence was that of *trial by battle*. Neither a nice distinction of law, nor any great exercise of natural sagacity, was observable in the decisions of the feudal courts of justice. In all doubtful cases, and especially when a crime not capable of notorious proof was charged, trial by combat was awarded. The Almighty, as they deemed, was the judge. The feudal lord fought on horseback, with all his arms of attack and defence; the plebeian on foot, with his club and target. The same were the weapons of the champions to whom women and ecclesiastics were permitted to entrust the defence of their rights. If the combat was intended to ascertain a civil right, the vanquished party forfeited his claim, and paid a fine; if he fought by proxy, the champion was liable to have his hand struck off; a regulation necessary perhaps to obviate the corruption of these hired defenders. In criminal cases the appellant suffered, in the event of defeat, the same punishment which the law awarded to the offence of which he accused his adversary. Even where the cause was more peaceably tried, and brought to a regular adjudication by the court, an appeal for false judgment might indeed be made to the suzerain, but it could only be tried by battle. In such a case as this, the appellant who wished to impeach the judgment of the court below, was compelled to meet successively in combat every one of its members, and unless he vanquished them all within the day, his life, if he escaped from so many hazards, was forfeited to the law, so that this kind of appeal was somewhat of a perilous nature to those who availed themselves of it. If fortune should make him conqueror in every contest, the judges were equally subject to death, and their court forfeited their jurisdiction for ever; a regulation which seems, at first thought, as perilous to the judges as to the appellant, were it not that he had several to one against him. A less

hazardous mode of appeal was to call into the field the first judge who pronounced a hostile sentence; if the appellant came off victorious in this challenge, the decision was reversed, but the court was not impeached. For denial of justice, that is, for a refusal to try his suit, the plaintiff repaired to the court of the next superior lord, and supported his appeal by testimony; yet even here the witnesses might be defied, and the trial by battle insisted on.

The mode in which the ceremonies of the trial by battle were conducted, may be sufficiently illustrated by the following extract from Blackstone. The usages as here laid down are such as were recognised when the legal points of the matter were duly and formally agreed to, and made the subject of a code; and indeed the expressions and technical terms used would convey an idea of a modern trial in one of our courts, were it not that hard blows were employed instead of hard arguments. 'When the tenant in a writ of right pleads the general issue, viz.: that he hath more right to hold than the demandant hath to recover, and offers to prove it by the body of his champion, which tender is accepted by the demandant, the tenant in the first place must produce his champion, who by throwing down his glove as a gage or pledge, thus wages or stipulates battel with the champion of the demandant; who, by taking up the gage or glove, stipulates on his part to accept the challenge. The reason why it was waged by champions, and not by the parties themselves, in civil actions, is because if any party to the suit dies, the suit must abate and be at an end for the present; and therefore no judgment could be given for the lands in question, if either of the parties were slain in battel; and also that no person might claim an exemption from this trial, as was allowed in criminal cases, where the battel was waged in person.

'A piece of ground is then in due time set out, of sixty feet square, enclosed with lists, and on one side a court erected for the judges of the court of common pleas, who attend there in their scarlet robes; and also a bar is pre-

pared for the learned serjeants-at-law; when the court sits, which ought to be by sun-rising, proclamation is made for the parties and their champions, who are introduced by two knights, and are dressed in a coat of armour, with red sandals, bare-legged from the knee downwards, bare-headed, and with bare arms to the elbows. The weapons allowed them are only batons or staves of an ell long, and a four-cornered leather target, so that death very seldom ensued this civil combat. In the court military, indeed, they fought with court and lance; as likewise in France, only villeins fought with the buckler and baton; gentlemen, armed at all points.

‘When the champions, thus armed with batons, arrive within the lists or place of combat, the champion of the tenant then takes his adversary by the hand, and makes oath that the tenements in dispute are not the right of the demandant; and the champion of the demandant, then taking the other by the hand, swears in the same manner that they are; so that each champion is, or ought to be, thoroughly persuaded of the truth of the cause he fights for. Next, an oath against sorcery and enchantment is to be taken by both the champions, in this or a similar form, “Hear this, ye justices, that I have this day neither eat, drank, nor have upon me neither bone, stone, ne grass; nor any enchantment, sorcery, or witchcraft, whereby the law of God may be abased, or the law of the devil exalted. So help me God and his saints.”

‘The battel is thus begun, and the combatants are bound to fight till the stars appear in the evening; and if the champion of the tenant can defend himself till the stars appear, the tenant shall prevail in his cause; for it is sufficient for him to maintain his ground and make it a drawn battel, he being already in possession; but, if victory declares itself for either party, for him is judgment finally given. This victory may arise from the death of either of the champions, which indeed hath rarely happened; the whole ceremony, to say the truth, bearing a near resemblance to

certain rural athletic diversions, which are probably derived from this original. Or victory is obtained if either champion prove *recreant*, that is, yields and pronounces the horrible word of *craven*; a word of disgrace and obloquy, rather than of any determinate meaning. But a horrible word it indeed is to the vanquished champion; since as a punishment to him for forfeiting the land of his principal, by pronouncing that shameful word, he is condemned as a recreant, "*amittere liberam legem*," that is, to become infamous, and not be accounted "*liber et legalis homo*," being supposed by the event to be proved forsworn, and therefore never to be put upon a jury, or admitted as a witness in any cause.'

The above extract relates to a state of things when feudalism was on the decline in England, and when the trial by combat was strangely mixed up with the phraseology of modern law-courts; but it will give an idea of the general spirit of this mode of deciding quarrels. The trial by battle, or judicial combat, was only one portion of a more extensive system which, under the name of 'trial by ordeal,' presupposed that God would decide who was in the right, by giving a strong arm, or other favourable token to one of the disputants. This curious system requires a little further notice.

At a time when reading and writing were but little practised, the greater part of affairs in common life and business were carried on by verbal contracts or promises. It was thus not only rendered difficult to bring proof to establish any claim, but fraud and falsehood were also encouraged. To define with accuracy the species of evidence which a court had reason to expect, to determine when it ought to insist on positive proof, and when it should be satisfied with circumstantial evidence; to compare the testimony of discordant witnesses, and to fix the degree of credit due to each, were discussions too intricate for the judges of those days. In all cases where the notoriety of the fact did not furnish the clearest and most positive evidence, the accused party was either called, or

voluntarily offered to purge himself by oath, and upon declaring his innocence he was acquitted. But as this offered a premium for perjury, too great for unscrupulous men to withstand, an attempt was made to give the transaction more force and importance, by administering the oath with great solemnity, accompanied with every circumstance which could inspire religious reverence or superstitious terror. This again soon became too familiar a practice to make much impression on the litigants, and they did not scruple to take false oaths, notwithstanding these supposed checks. An idea then arose, that if the person who took the oath were compelled to engage others as well as himself in the pledge, he would be scrupulous in regard to the oath which he took. Accordingly, the accused person was required to appear with a certain number of freemen, his neighbours or relations, who were to corroborate the oath which he took, by swearing that they believed all that he had uttered to be true. In some cases the number of these witnesses (who were called *compurgators*) required for the acquittal of the accused party, when the cause was one of great importance, amounted to three hundred. Here again the object in view was baffled; for it was almost everywhere a point of honour not to desert a superior, or one connected by relationship; so that whoever was bold enough to violate the laws, was sure of devoted adherents, willing to abet and serve him in whatever manner he required.

All these provisions having proved fruitless, it was next attempted to inculcate the belief that the testimony of heaven might be brought to bear on the cause of dispute, and that, at the time of trial, an invisible power would point out the guilty and the innocent. The person accused, in order to prove his innocence, submitted to various strange ordeals, such as plunging his arm into boiling water, lifting a red-hot iron with his naked hand, or walking barefoot over burning plough-shares. All these various forms of trial were conducted with many devout ceremonies; the

ecclesiastics were employed to give a more sacred character to the ceremony; the Almighty was called upon to declare by some token who was the injured person and who the injurer; and whoever escaped without injury or with least injury from these ordeals, was pronounced to have been acquitted by the 'Judgment of God.'

Many instances have been recorded by various writers in illustration of this practice. In the year 775, a contest arose between the bishop of Paris and the abbot of St Denys, concerning the property of a small abbey. Each of them exhibited deeds and records, in order to prove their respective rights. Instead of trying the authenticity, or considering the import of these, the point was referred to the 'judgment of the Cross,' which consisted in two champions, one for each party, standing before the cross with extended arms, during the whole celebration of mass. He whose representative first became weary, and altered his position, lost the cause. The person employed by the bishop on this occasion had less strength or less spirit than his adversary, and the question was decided in favour of the abbot.

All the rude nations which invaded the Roman empire had among them customs pertaining either to judicial combat or to trial by ordeal. Among the ancient laws of the Swedes was the following: 'If any man shall say to another these reproachful words—"You are not a man equal to other men"—or, "You have not the heart of a man," and the other shall reply,—"I am a man as good as you;"—let them meet on the highway. If he who first gave offence appear, and the person offended absent himself, let the latter be deemed even a worse man than he was called; let him not be admitted to give evidence in judgment either for man or woman, and let him not have the privilege of making a testament. If he who gave the offence be absent, and only the person offended appear, let him call upon the other with a loud voice thrice, and make a mark upon the earth, and then let him who absented himself be deemed infamous, because he uttered words which he durst not support. If both shall

appear properly armed, and the person offended shall fall in the combat, let a half compensation be paid for his death. But if the person who gave the offence shall fall, let it be imputed to his own rashness ; the petulance of his tongue hath been fatal to him. Let him lie in the field without any compensation being demanded for his death.' Here it is evident that a kind of honourable feeling was accompanied by the custom of trial by battle.

Even religious controversies were settled sometimes by judicial combat, sometimes by trial by ordeal. A remarkable instance, in which both were employed, occurred in Spain in the eleventh century. A question was agitated whether the Musarabic liturgy and ritual which had been used in the churches of Spain, or that approved of by the See of Rome, which differed in many particulars from the other, contained the form of worship most acceptable to the Deity. The Spaniards contended zealously for the ritual of their ancestors : the popes urged them to receive that to which they had given the papal sanction ; and a violent contest arose. The nobles proposed to decide the controversy by the sword ; and the king approved of this mode of decision. Two knights in complete armour entered the lists ; and the champion for the Spanish party was victorious. But the queen and the archbishop of Toledo, who favoured the other form, insisted on having the matter submitted to another trial, and had interest enough to prevail in a request inconsistent with the laws of combat, which being considered as an appeal to God, the decision ought to have been deemed final. A great fire was kindled, and a copy of each liturgy cast into the flames. It was agreed, that the book which stood this proof, and remained uninjured, should be received in all the churches in Spain. The Musarabic liturgy triumphed again in this trial, and thus the contest was decided.

Robertson shews that, with the ideas then prevalent in the public mind, the ordeal and the combat were only what we might suppose to have been consistent. 'As men are

unable to comprehend the manner in which the Almighty carries on the universe, by equal, fixed, and general laws, they are apt to imagine that in every case which their passions or interest render important in their own eyes, the Supreme Ruler of all ought visibly to display his power in vindicating innocence and punishing guilt.' This spirit prevailed extensively during the feudal ages ; so that the trial by ordeal was quite consistent with public opinion at that time ; it being supposed that the Creator would point out the guilty and the innocent at the time of trial. With respect to the trial by combat, it originated rather in the haughty military spirit of the barons, than in any feeling running through society generally ; but coupled with the trial by ordeal, it formed what may be termed the judicial code of the feudal times.

FEUDAL GOVERNMENT.

The feudal government, or the part which the barons took in the making of the laws for the government of a country, was so intimately connected with the above modes of putting the laws in execution, and doing justice between man and man, that we will shortly treat on that subject in the present chapter.

The early Germans, as described by Tacitus, long before their irruption into the Roman provinces, had stated *assemblies* or *parliaments*, at which they deliberated upon public affairs ; chiefly upon the enterprizes which they contemplated, and upon the events of the preceding period. At these assemblies the freemen and warriors met armed ; and smaller meetings, or councils of chiefs, were held on affairs of inferior importance.

When a settlement had been made in the provinces of the Roman empire, the same custom was observed in a modified form. Clovis, king or chief of the Franks, who conquered Gaul, and became the first king of what we now term France, was a bold warrior who had probably gained his ascendancy by the force of arms ; but he succeeded in

giving to the throne something like an hereditary character ; and it was through this hereditary succession that Charlemagne assumed the reins of power both in France and in Germany. But though there was thus a king, yet his power was far different from that which we now recognize as regal power. His kingdom was occupied by numerous feudal barons, only a little less powerful than himself ; so that the progress of national government was exceedingly slow.

The popular principle of representation was always more or less observable among the German nations ; and thus we find in the feudal times that the regal, the baronial, and the popular privileges were often in a curious state of transition. The Lombards (Longobardi—‘long-beards’), who settled in northern Italy, held assemblies every year at Pavia, where the chief officers of the king, and the proprietors of land, deliberated upon all legislative measures, in the presence, and apparently with the consent, of the people at large. Similar public meetings were held in France ; they were called ‘Parliaments of the Champ de Mars’—that is, field-parliaments held in the month of March. It is supposed that every allodial proprietor had a legal right to assist in the deliberations of these open-air parliaments, but that at the same time the efficient power was confined principally to the leading aristocracy. In the time of Charlemagne the Frankish government was arranged somewhat thus : Two assemblies were annually held ; in the first of which all regulations of importance to the public weal for the ensuing year were enacted ; and to this assembly the whole body of clergy and laity were admissible, the most influential to deliberate upon what was fitting to be done, and the less influential to sanction and confirm the decisions. In the second assembly, which was also annual, the chief men and officers of the state were alone admitted, to consult upon the most urgent affairs of government. The king laid before them certain short proposals, called *capitularies*, on which they debated and decided ; somewhat analogous to the ‘*bills*’

which the English minister brings before parliament for its approval. The clergy and nobles met in separate chambers, though sometimes uniting for the purposes of deliberation. The various capitularies which Charlemagne from time to time submitted to these assemblies, formed at length an extensive and important body of laws.

So long as the sceptre was wielded by the powerful hand of Charlemagne, this kind of representative government was kept up ; but under his feeble successors, the great feudal barons contrived to lessen both the kingly and the popular power, and to increase their own. The people lost their immediate relation to the supreme government in their subordination to their feudal lord. Still the people appear to have had a voice in the election of the king, at a time when the hereditary succession was not firmly established. There continued to be some slight mixture of democracy in the French government, under the reigns of Charlemagne's immediate successors.

But this did not continue very long ; for about seventy years after Charlemagne's death the popular assemblies ceased to be held. France, which may be taken as the representative of the feudal system on its greatest scale, became a collection of fiefs, and the king little more than a fief-holder, differing rather in dignity than in power from some of the rest. The royal council was composed wholly of barons, or tenants in chief, prelates, and household officers, and these probably held their deliberations in private, as there is no evidence that the people were admitted to take part therein. This council advised the king in matters of government, confirmed and consented to his grants, and judged in all civil and criminal cases, where any peers of their court were concerned. The subscriptions of these royal counsellors were necessary for the confirmation or authentication of charters. The great vassals of the crown acted for themselves in their own territories, with the assistance of councils similar to that of the king.

Occasionally the kings of France appear to have acted

with the concurrence of an assembly, not indeed so popularly constituted as those under Charlemagne, but more numerous and more particularly summoned than the royal council. The apparent absoluteness of the French kings, so far as respected the interference of the people, was rather a source of weakness than of strength ; for the peers were irregular in their attendance upon the king's council, because they denied its coercive authority. It was a fundamental principle that every feudal lord was so far sovereign within the limits of his fief, that he could not be bound by any law without his consent.

Upon special occasions, when the necessity of common deliberation, or of giving to new provisions more extensive scope than the limits of a single fief, was too obvious to be overlooked, congresses of neighbouring lords met, in order to agree upon resolutions which each of them undertook to maintain within his own fief. The king was sometimes a contracting party, but without any coercive authority over the rest.

There are many other points of interest connected with legislation and government in the feudal times ; but these relate rather to the ameliorations which led by imperceptible steps to the downfall of the feudal system ; and will therefore come more fittingly under notice in a future chapter.

CHAPTER VI.

NATURE OF FEUDALISM;

II. IN RELATION TO RELIGION, MORALS, EDUCATION, AND COMMERCE.

The Feudal System in relation to Religion. Reception and Practice of Christianity by the Barbarous Nations. Influence of the Church on the Feudal Power. The happy Effects of this Influence. The Feudal System in relation to Morals. Low State of Morals previous to the Feudal System. Beneficial Influence of the Union between the Lord and his Vassal. General Diffusion of Loyalty. The inestimable Value of this Feeling. Pride of Birth and Ancestry. The Feudal System in relation to Education. Disappearance of the Arts, Science, Learning, &c. of the Ancients under the influence of the Barbarians. The general Ignorance and Rudeness of all Classes of Society. Examples of this Ignorance. Origin of Signing by means of a Cross among Illiterate Persons. State of Learning, &c. in the time of Alfred. Scarcity of Books. Their value. Invention of Paper. Origin of the Scholastic Philosophy. The Feudal System in relation to Commerce and Intercommunication. Difficulties of Intercommunication. The Seas infested by Pirates;—the Land by Banditti. Curious Effects of want of Intercommunication. General Ignorance of Geography and Topography. Absence of Inns. Hospitality;—how regulated.

WE now proceed to notice the general tendency of the Feudal System in respect to what may perhaps be termed the individual character of man; his feelings in respect of his Creator; his moral conduct; his mental character, and his social relations.

In viewing the tendency and position of the feudal times in these respects, it will be found, as in most of the considerations which have hitherto occupied our attention, that the native character of the barbarians of Germany was displayed more or less in all their subsequent institutions.

THE FEUDAL SYSTEM IN RELATION TO RELIGION.

In the early ages of the Christian æra, the Christian religion, though its precepts are delivered, and its institutions are fixed by scripture, with a precision which should have exempted them from being misinterpreted or corrupted, degenerated into an illiberal superstition. The barbarous nations (as Robertson well observes), when converted to Christianity, changed the *object* but not the *spirit* of their religious worship. They endeavoured to conciliate the favour of the Almighty by means not unlike those which they had before employed in order to appease their false deities. Instead of aspiring to sanctity and virtue, they imagined that they satisfied every obligation of duty by a scrupulous observance of forms and ceremonies. Religion, according to their conception of it, comprehended nothing farther; and the rites, by which they persuaded themselves that they should gain the favour of heaven, were altogether of a gross and unspiritual nature. Charlemagne in France, and Alfred the Great in England, endeavoured to lessen the barbarism of this mutilated form of Christianity; but shortly after their reigns, it lapsed again into its former grossness.

But notwithstanding the manifold imperfections and abuses which characterized both the church as a body, and the current religious opinions at that time, there is reason to believe that the church was a powerful means of restraining the tyrannical exercise of feudalism. The church, in spite of its defects at that time, maintained and preserved the ideas of order, law, justice, morality, and the equality of all men before God; and however slightly each of these operated at the time, yet they altogether produced an effect which ought not to be lost sight of. Dr. W. C. Taylor, in his 'Natural History of Society,' treats the subject in the following clear and eloquent manner:

'The feudal nobility was isolated, not merely as a body, but individually; the church linked itself with every class of society. The bishops were the companions of princes, the

priests claimed reverence in the baronial hall, the preaching friars and monks brought consolation to the cottage of the suffering peasant ; thus everywhere offering a strong contrast between sacerdotal universality and feudal exclusiveness. When distinctions as rigid and more onerous (because more obviously artificial) than *caste*, were established in every form of social life, the church scarcely knew any aristocracy but that of talent ; once received into holy orders, the serf lost all traces of his bondage ; he was not merely raised to an equality with his former lord, but he might aspire to dignities which cast those of temporal princes into the shade. Under such circumstances, the church was inexpressibly dear to the suffering people, and an object of jealousy not unmingled with hatred, to the feudal tyrants. The ecclesiastical power was daily increasing, as its benefits were more sensibly experienced ; the right of sanctuary—in later ages one of its worst abuses, but in the days of unlicensed passions one of its most beneficent institutions—soon placed the church in an attitude of hostility to the nobility, and gave the signal for a struggle, in which the latter body for the first time learned to estimate the importance of the people.

‘ In every age and in every land a church exposes its purity to imminent peril by taking the lead in any political struggle : defeat is its ruin, and victory its corruption. It suffers equally in its collective capacity and in its individual members ; for the union of the priest and the demagogue forms a character dangerous to the peace of society. But history presents us no instance of such a condition becoming general, save when there is a popular opinion that substantial wrongs exist, against which the members of the sacerdotal order are the only persons able or willing to find a remedy. Such an opinion was formed throughout Europe by those who groaned under feudal domination, and the people could not reasonably be blamed for seeking protection from the priests, when their lords, or rather the lords of their soil, left them no other refuge. It was clearly a matter of necessity, that the church should be kept inde-

pendent of the temporal power, at a time when the temporal power crushed into ruin every thing within its grasp.'

Other writers have expressed opinions rather more favourable to the barons than the above, and less so to the church, in reference to the state of religion in the feudal times; but all seem to agree that the church and feudalism were essentially different in their constitution, and that the spirit which pervaded the former, even in the worst of times, had a tendency to lessen some of the evils of feudalism.

THE FEUDAL SYSTEM IN RELATION TO MORALS.

In intimate connexion with the state of religion under the feudal system, is the general tone of moral and social conduct; and here we must look to the state of things immediately after, and consequent on, the overthrow of the Roman empire, before we can form a just notion of the subsequent times.

The inhabitants of Europe, during the troubled period which immediately preceded the establishment of the feudal system, were as much strangers to the arts which embellish a polished age, as they were destitute of the virtues of primitive times. Force of mind, a sense of personal dignity, gallantry in enterprize, invincible perseverance in execution, contempt of danger and of death, are, as Robertson remarks, the characteristic virtues of uncivilized nations. But these are all the offspring of equality and independence, both of which became destroyed in those times of violence and ambition. The spirit of domination corrupted the nobles; the yoke of servitude depressed the people; the generous sentiments inspired by a sense of equality were extinguished, and hardly any thing remained to be a check on ferocity and rapacity. The original independence and simplicity of manners had been lost; while the sense of decorum and propriety which civilization induces had not yet been attained.

The manner in which the feudal institutions gradually tended to soften this rudeness of conduct, and to elevate the

people, is thus explained by Hallam. 'When the relation between lord and vassal became firmly established, violation of faith stood first in the catalogue of crimes most repugnant to the very essence of a feudal tenure, most severely and promptly avenged, most branded by general infamy; and as this crime had been one of the most prevalent in the disturbed times, feudalism here exerted a marked and beneficial influence. The feudal law-books breathe throughout a spirit of honourable obligation. The feudal course of jurisdiction promoted, what trial by peers is peculiarly calculated to promote, a keener feeling and readier perception of moral as well as of legal distinctions. And as the judgment and sympathy of mankind are seldom mistaken in these great points of veracity and judgment, except through the temporary success of crimes, or the want of a definite standard of right, they gradually recovered themselves when law precluded the one and supplied the other. In the mutual relation of lord and vassal there was scope for much that was great and good: no occasion could be more favourable to the growth of generous sentiments than the protection of a faithful supporter, and the defence of a kind superior, against powerful aggression; and if such sentiments were not developed in their full force, it arose from defects in the feudal system in other respects.'

Mr. Hallam draws from these circumstances a conclusion which, in a monarchical country like England, is valuable and instructive. 'From these feelings, engendered by the feudal relations, has sprung up the peculiar sentiments of personal reverence and attachment toward a sovereign, which we denominate *loyalty*; alike distinguishable from the stupid devotion of eastern slaves, and from the abstract respect with which free citizens regard their chief magistrate. Men who had been used to swear fealty, to profess subjection, to follow a feudal superior and his family at home and in the field, easily transferred the same allegiance to the monarch. It was a very powerful feeling which could make the bravest men put up with slights and ill-

treatment at the hands of their sovereign, or call forth all the energies of disinterested exertion for one whom they never saw, and in whose character there was nothing to esteem. In ages when the rights of the community were unfelt, this sentiment was one great preservative of society ; and, though collateral, or even subservient to more enlarged principles, it is still indispensable to the tranquillity and permanence of every monarchy. In a moral view, loyalty has scarcely perhaps less tendency to refine and elevate the heart than patriotism itself, and holds a middle place in the scale of human motives, as they ascend from the grosser inducements of self-interest to the furtherance of general happiness, and conformity to the purposes of Infinite Wisdom.'

There was, among the moral effects of the feudal system, one which, though good when curbed, became an evil when carried to excess. This was a kind of veneration for the acts and scenes of past times, and not simply this, but a veneration even for those acts of the past which had retarded rather than advanced human happiness. The Romans, before the barbarians invaded the empire, had a superstitious regard for their ancestors and ancestral usages ; it was inculcated by their rulers, and though carried to excess, it was rather a disposition to be guided by the wisdom, and follow the example of those who had gone before, than an attachment to mere antiquity. 'But out of the feudal system and its observances,' as one writer remarks, 'and more especially out of the customs of chivalry, there grew a devout veneration for all that was old and established. Antiquity of family, the having been long settled in one place, the possession of ancient castles, in which much slaughter had been done, and many generations of barbarians had revelled, became things prized beyond all others by most men ; and even among those who cared little for the things themselves, a sentiment of interest in old manners and habits, which is called *romance*, grew up and spread.' This latter effect did not shew itself so much at the time as afterwards,

but it was intimately connected with the general tendency of the feudal system, and was obviously a state of feeling liable to lead to good or evil, according as virtuous or vicious habits were the objects of reverence.

THE FEUDAL SYSTEM IN RELATION TO EDUCATION.

The state of mental culture, as respects the sciences, arts, and occupations of the people in the feudal times, is intimately connected with their usual condition; and, like it, cannot be understood without glancing back to the times immediately following the overthrow of the Roman empire by the barbarians.

At the time of this event, the Romans, though they had lost that correct taste which rendered the productions of their ancestors standards of excellence and models of imitation for succeeding ages, still preserved their love of letters, and cultivated the arts with great ardour. But rude barbarians were so far from being struck with any admiration of these (to them) unknown accomplishments, that they despised them. They had not arrived at that state of society when those faculties of the human mind, which have beauty and elegance for their object, begin to unfold themselves. They were strangers to most of those wants and desires which are the parents of ingenious invention; they did not comprehend either the merit or utility of the Roman arts, and therefore they destroyed the monuments of them with an industry not inferior to that with which their posterity have since studied to preserve or to recover them. The convulsions occasioned by the settlement of so many rude tribes in western Europe; the frequent as well as violent revolutions in every kingdom which they established; together with the interior defects in the form of government which they introduced, banished security and leisure, prevented the growth of taste or the culture of science, and plunged Europe into a state of great ignorance. Within less than a century after the

barbarian nations settled in their new conquests, almost all the effects of the knowledge and civilization which the Romans had spread through Europe had disappeared. Not only the arts of elegance, which minister to luxury and are supported by it, but many of the useful arts incidental to the general comforts of life, disappeared. All this is what may well be expected to have resulted from the disorganized social state at that time; for if men do not enjoy the protection of regular government, together with the personal security which naturally flows from it, they never attempt to make progress in science, nor aim at attaining refinement in taste or in manners.

The ignorance and rudeness here alluded to were not confined to the lower grades of society; they were observable among the highest. Persons of rank, and those occupying the most eminent stations, could neither read nor write. Many of the clergy did not understand the breviary which they were obliged daily to recite; and some of them could scarcely read it. The memory of past transactions was in a great degree lost, or preserved only in annals filled with trifling events or legendary tales. Europe, during four centuries, produced few authors whose works are worthy of perusal, either on account of the elegance of their composition, or the justness and novelty of their sentiments. Evidences in proof of these assertions have been collected by Robertson in abundance; of which some may be here given.

Many charters are preserved, originally granted by persons of the highest rank, from which it appears that they could not subscribe their names. It was usual for persons who could not write to make the sign of the cross in confirmation of the charter; and several such charters yet remain, in which kings and persons of great eminence have given this token of ignorance. From this is derived the phrase of '*signing*' instead of '*subscribing*' a paper. The supreme judge of the empire in the ninth century, and Du Guesclin, a very eminent man of a still later

period, could neither read nor write. Many dignified ecclesiastics could not subscribe the canons or regulations of those councils in which they sat as members. In England, in the time of Alfred the Great, it was complained by that enlightened monarch, that from the Humber to the Thames there was not a priest who understood the liturgy in his mother-tongue, or who could translate the easiest piece of Latin; and that from the Thames to the sea the ecclesiastics were still more ignorant.

Besides the obvious and explained causes for this deplorable state of ignorance, there was another which tends to shew the difficulties with which men had to contend in the prosecution of study, even when they were inclined to it, namely, the scarcity of books. The Romans of a former era had written their books either on parchment or on paper made of the Egyptian papyrus, the latter being the cheaper and the more commonly used. But after the conquest of Egypt by the Saracens, in the seventh century, the communication between that country and Italy and France became almost entirely discontinued, and the papyrus was no longer used as it had been. The inhabitants of Europe, therefore, were obliged to write all their books upon parchment, and as the price of that material was high, books became extremely rare, and of great value. A curious proof may be given of the scarcity of writing materials in the eighth, ninth, and tenth centuries; viz. that many manuscripts of those times were written on parchment from which some former writing had been erased, in order to substitute a new composition in its place. It is supposed that in this manner several works of the ancients were destroyed; the valuable thoughts of a Tacitus or a Livy being superseded by, perhaps, some monkish legend. Montfaucon stated that the greater part of the manuscripts which he had seen, written in the middle ages, were on parchment from which some former writing had been erased. As the want of materials for writing is one reason why so many of the works of the ancients have perished, so also it will

account for the small number of manuscripts of any kind previous to the eleventh century. Private persons seldom possessed any books whatever ; and even monasteries of considerable note had only one missal. An abbot wrote to the pope in the year 855, beseeching him to lend a copy of Cicero and of Quintilian. 'For,' said he, 'although we have parts of those books, there is no complete copy of them in all France.' The price of books became so high, that persons of moderate fortune could not afford to purchase them. The countess of Anjou paid for a copy of the 'Homilies' of Haimon, bishop of Halberstadt, two hundred sheep, five quarters of wheat, and the same quantity of rye and millet. Sometimes plate and jewels were pledged as security for the loan of a book ; and in other cases a bond or deed was signed and witnessed, covenanting the return of a borrowed book at a stipulated period. When any person made a present of a book to a church or monastery, it was deemed a donation of such value, that the donor offered it on the altar *pro remedio animæ suæ*, that is, 'for the salvation of his soul.'

When once the means of writing were procured, (and the invention of the art of making paper, in the eleventh century, multiplied these means, while the feudal system was yet in full force), the direction of thought was such as naturally resulted from the mode in which society had been rudely demolished, and as rudely re-established. As soon as the principal countries of Europe settled down into something like order, and a glimmering light was thrown on the advantages of commerce, of public order, and of personal security, there were slight indications of active thought in some few minds of less rude texture than the rest, and these thoughts received that particular stamp which afterwards obtained the name of the *scholastic philosophy*. As soon as men began again to exercise their intellect, after a mental darkness of many centuries, instead of rising step by step from one subject to others more difficult, they plunged at once into the depths of metaphysics, proposing to them-

selves the solution of questions which never have been solved, and probably never will. Each writer framed theories of the universe, of the creation, or of the mind of man, according to the current of his own thoughts, without testing the truth of his theories by observation of the world as it really exists; or, if facts appeared to contradict the theory, the theorist would not scruple to bend and distort them to his purpose.

The state of religious feeling had much to do with this mode of philosophising. The simple truths of Christianity had been overlaid with theories of philosophy which attempted to penetrate mysteries beyond our power of comprehension; and thus the so-called philosophers of the middle ages took these mystic reasonings as part and parcel of their religion. The scholastic theology, with its train of bold disquisitions and subtile distinctions, was one of the first results of the awakened thought of the middle ages.

THE FEUDAL SYSTEM IN RELATION TO COMMERCE AND INTERCOMMUNICATION.

The relations between man and man, in all that concerned exchange of produce and personal intercourse, were such as naturally resulted from the texture of society under the feudal system. Europe, or what had been the western part of the Roman empire, was broken up by the barbarians into a number of petty and disjointed states, having scarcely any intercourse one with another. Navigation was dangerous in seas infested by pirates, and strangers could not hope for a friendly reception in the ports of uncivilized nations. Even between distant parts of the same kingdom the communication was difficult and infrequent. The lawless conduct of banditti, (for there were abundance of them in such times), together with the formidable and oppressive exactions of the barons, rendered a journey of any considerable length very perilous. The greater part of the inhabitants of Europe, therefore, fixed thus to the spot on

which they resided, lost in great measure the knowledge of remote districts, together with their situations, their climates, their productions and trading commodities, and even their names.

The proofs which shew how little communication was maintained between various countries, are often very curious. Towards the close of the tenth century, count Bouchard, intending to found a monastery at St Maur, near Paris, applied to an abbot at Clugny, in Burgundy, intreating him to conduct the monks thither. In his letter, the count tells the abbot that he had undertaken the labour of such a great journey, that he was fatigued with the length of it, and hoped that his journey into such a distant country would not be in vain. The abbot, in his answer, refused to comply with this desire, as it would be extremely fatiguing to accompany the count into 'a strange and unknown region.' This strange and unknown region was in the vicinity of Paris! There was an occasion on which two fraternities of monks wished to find out and aid each other; one was at Tournay in Flanders, and the other at Ferrieres, but neither one had ever heard of such a place as that at which the other resided, and it was only by accident that the particular places were explored. In a map of the world, constructed in the feudal times and still preserved, Jerusalem is placed in the middle of the globe, and Alexandria is about as near to it as Nazareth.

There were no inns or houses of entertainment on the road from one town to another; and thence it became a custom to observe that hospitality towards travellers which so frequently marks the character of half-civilized nations. Indeed, this hospitality was so necessary to that state of society, that it was not considered as one of those virtues which men may practise or not, according to their temper or disposition. It was enforced by statutes, and such as neglected this duty were liable to punishment. Yet it seems a strange contradiction to this conduct, that if a traveller remained in any country or state but his own for

a long time, he became subjected to many hardships. If a person removed from one province in a kingdom to another, he was bound within a year and a day to acknowledge himself the vassal of the baron on whose estate he settled; if he neglected to do so, he became liable to a penalty; and if at his death he neglected to leave a certain legacy to the baron within whose territory he resided, all his goods were confiscated. Many other regulations were enforced, tending to augment a baron's power and wealth by exactions on strangers; and this had a most unfavourable effect on every kind of communication between one state and another, whether for commerce or for pleasure. These regulations, the depredations of bands of robbers, and the general ignorance which prevailed throughout Europe, kept commerce within very narrow bounds during the darker period of the feudal system.

CHAPTER VII.

THE DECLINE OF FEUDALISM.

I. AS INFLUENCED BY THE RISE OF MUNICIPAL INSTITUTIONS.

Effects of Feudal Government on Cities and Towns. Assumption of Privileges by the Italian Cities. The Royal or Baronial Consent thereto. How Acquired. Increase of Civic Power. Subjection of the Nobles to the Municipalities. The Nobles and Ecclesiastics begin to reside in the Cities. Influence of the Example of the Italian Cities on France. Civic Charters granted by Louis le Gros. Motives for these Grants. Charters granted by the Barons. Value of these Charters in giving Security to Person and Property. Origin of the Civil Law traced to these Charters. Growth of Civic Power in Germany. Origin of German Cities. Gradual Acquisition of Municipal Rights therein. Origin of Municipal Institutions in Spain and England.

FEUDALISM, like most other institutions of past ages, had an infancy, a full-tide vigour, and a decrepitude; but it would be wrong to suppose that each of these conditions was distinctly separated from the others, by a date, an event, a place, or an individual. Each one gradually yielded to, and prepared the way for, that which followed it. The religious, the moral, the social, the regal, the judicial, the intellectual, the industrial, the commercial—every one of the institutions of those times was in a slowly transitory state, producing changes in the others even while experiencing a change in itself. But still, though it is not possible to fix upon any particular date at which the feudal system began to decay, yet there are certain principles which may be referred to as the causes of change, and as the agents whereby feudalism gradually declined and eventually fell into decay. The consideration of these principles will now occupy our attention.

The rise of *municipal* or corporate bodies, having a certain amount of internal self-government independent of the nobles, was one of the most important sources of change in the feudal system. Robertson's exposition of this subject is clear and valuable, and will form the chief basis of the following remarks.

The state of cities or towns was lamentably weak during the height of feudal power. The feudal government had degenerated into a system of oppression ; for the usurpation of the nobles became by degrees so unscrupulous, that not only were the great body of the people reduced to actual servitude, but the condition of those dignified with the name of 'freemen' was very little better. This was felt not only in the open country, where agricultural operations were carried on, but also in towns and cities ; for the inhabitants of these found it necessary to succumb to some great lord, on whom they might depend for protection, and to whose arbitrary jurisdiction they became subject. The inhabitants hence became deprived of those rights which in social life are deemed most natural and inalienable ; they could not dispose of their property either by deed or by bequest ; they lost the right to appoint guardians for their children during minority ; they were not permitted to marry without purchasing the consent of the lord on whom they depended ; and if once they had commenced a law-suit, they durst not terminate it by mutual agreement, because that would deprive the lord, in whose court they pleaded, of the perquisites due to him on passing sentence. Services of various kinds, no less disgraceful than oppressive, were exacted from them without mercy or moderation. The spirit of industry was checked in some cities by absurd regulations, and in others by unreasonable exactions ; and there is reason to think that this state of things would have continued, if the baronial power had not received a check from causes which we proceed to trace.

It was in Italy that the cities first began to shake off the lordly yoke which had oppressed them, and to think

and act for themselves. Italy was in such a troubled position at the times to which we refer, that the inhabitants of towns were forced, even without regard to feudal causes, to act on the defensive. The emperors of Germany were monarchs of the northern part of Italy; but as the seat of government was far distant, the jurisdiction was feeble and imperfect. The emperors engaged in perpetual quarrels either with the popes, or with their own powerful vassals, thus had their attention diverted from Italy. These circumstances induced the inhabitants of the Italian cities, about the year 1000 A.D. to assume new privileges, to unite together more closely, and to form themselves into bodies politic under the government of laws established by the common consent of the townsmen. These rights were obtained by some of the cities by bold and fortunate proceedings; while others gained them gratuitously from the generosity or mildness of their princes; and others again purchased them from the emperors, who deemed themselves gainers when they received large sums for immunities which they no longer had the power to withhold. The commercial enterprize to which the crusades gave rise, so greatly augmented the power and liberty of the Italians, that before the conclusion of the last crusade all the considerable cities in that country had either purchased or extorted large immunities from the emperors.

These great changes were necessarily of slow growth. But when once effected, they speedily damaged the power of the feudal nobles. As soon as the Italian cities had obtained their liberty, they endeavoured to render themselves masters of the territory round their walls. Under the Romans, when cities enjoyed municipal privileges and jurisdiction, the surrounding lands belonged to each town, and were the property of the community. But in later times it was not the policy of the feudal nobles to encourage the growth of cities, or to shew any regard to their possessions and privileges; and therefore the lands contiguous to the cities had been seized as fiefs or feuds, the castle of

the baron being often erected almost at the very gates of the city. The citizens therefore, when they began to regain power, had to contend against this obstruction; and in many cases they attacked their troublesome neighbour the baron, dispossessed him, and annexed his territory to their city. Their ambition increasing with their power, the cities afterwards attacked several barons situated at a greater distance from their walls, and if conquest was on their side, they forced a negotiation on the baron, the general character of which was—that he should become a member of their community; that he would take the oath of fidelity to their magistrates; that he would allow his lands to be subject to all the burdens and taxes imposed by common consent; that he would defend the community against all its enemies; and that he would reside within the city during a certain specified time in each year.

This subjection of the nobles to the municipalities was regarded by the former as a great grievance. It was said in the time of the emperor Frederick I., that ‘the cities so much affect liberty, and are so solicitous to avoid the insolence of power, that almost all of them have thrown off every other authority, and are governed by their own magistrates; insomuch that all that country is now filled with free cities, most of which have compelled their bishops to reside within their walls; and there is scarcely any nobleman, how great soever his power may be, who is not subject to the laws and government of some city.’ Some of the nobles embraced from choice that which others had been forced to comply with. They observed the high degree of security, as well as of credit and estimation, which the growing wealth and dominion of the great communities procured to all their members; and they were desirous of partaking in these advantages, by paying an adequate price in the shape of reduced individual power. With this view they voluntarily became citizens of the towns to which their lands were most contiguous; and, abandoning their ancient castles, took up their residence in the cities for a

part, if not the whole of the year. A charter is extant, by which an Italian nobleman bound himself to become a citizen of one of the commercial towns, stipulating that he will acknowledge himself to be a burgess of that community, that he will to the utmost of his power promote its honour and welfare, that he will obey its magistrates, that he will enter into no league with its enemies, and that he will reside in the town as many months in the year as the magistrates may require; while the community, on the other hand, take him, his family, and friends, under their protection, and engage to defend him against every enemy.

The privileges and powers of the Italian cities at length became so great, that not only laymen but ecclesiastics of the highest rank condescended to be adopted as members of the great communities, hoping to enjoy the safety and dignity which that condition conferred. Before the institution of communities, persons of noble birth had no other residence than their castles; here they kept their petty courts, while the cities and towns were almost deserted, having scarcely any inhabitants but slaves and persons of low condition. But under the altered relations between noble and citizen, the cities not only became more populous, but were filled with inhabitants of better rank; indeed, it has been observable even down to modern times, that families of distinction reside more constantly in the great towns of Italy than in those of most other European countries. As the cities acquired new consideration and dignity by the accession of nobles to the citizenship, they became more solicitous to preserve their independence, not only against the feudal lords, but against the emperor, who had a nominal if not real power over them. The measures which they adopted to extend and maintain their liberty need not, however, engage the reader's attention here; it will suffice to have shewn how the feudal system in Italy became weakened by the rise of municipalities.

Meanwhile the rise of commercial cities into importance, and the consequent diminution of feudal power, ex-

tended from Italy to the neighbouring countries. Louis le Gros of France, in order to create a power that might counterbalance those potent vassals who had nearly as much influence as himself, adopted the plan of conferring new privileges on the towns situated within his own domain. These privileges were embodied in 'charters of community,' by which he enfranchised the inhabitants, abolished all marks of servitude, and formed them into corporations or bodies politic, to be governed by a council and magistrates of their own nomination. These magistrates had the right of administering justice within their own precincts, of levying taxes, of embodying and training to arms the militia of the town, which took the field when required by the sovereign, under the command of officers appointed by the community. The great barons too, who had expended vast sums in the crusades, were glad of an opportunity of raising money thus offered, by granting to the towns within their territories immunities similar to those granted by the king. It does not appear that this was done in accordance with any far-seeing policy, but as a temporary resort; yet the effects were permanent, for in less than two centuries most of the towns in France became free corporations, instead of dependent villages.

The French towns, however, did not obtain municipal privileges to the same extent as those of Italy. In the latter country the great towns became almost independent of the crown, and entirely so of the barons; but in France, although new privileges and immunities were granted, the right of sovereignty remained entire to the king or baron within whose territories the respective towns were situated, and from whom they received their charter of freedom. Robertson considers that these municipal charters given to the French towns were valuable chiefly in respect to two points of view; viz. *safety of person*, and *security of property*.

1. SAFETY OF PERSON.

During the state of turbulence and disorder which the corruption of the feudal government introduced into Europe, personal safety was the first and great object of every individual; and as the military barons alone were able to give sufficient protection to their vassals, this was one great source of their power and authority. But, by the institution of communities, effectual provision was made for the safety of individuals, independent of the nobles. The fundamental article in all these French charters was, that the members of the community bound themselves by oath to assist, defend, and stand by each other against all aggressors, and that they should not suffer any person to injure, distress, or molest any of their fellow-citizens. Whoever resided in any town which was made free, became obliged under a severe penalty to accede to the community, and to take part in the mutual defence of its members. The communities acquired the privileges of carrying arms, of making war on their private enemies, and of executing by military force any sentence which their magistrates pronounced. The practice of making satisfaction by a pecuniary compensation for murder, assault, or other acts of violence, was abolished; and such as committed these crimes were punished capitally, or with rigour adequate to their guilt. No member of a community was bound to justify or defend himself by battle or combat; but, if he was charged with any crime, he could be convicted only by the evidence of witnesses, and the regular course of legal proceedings. If any man supposed himself to be in danger from the malice or enmity of another, upon his making oath to that effect before a magistrate, the person suspected was bound under a severe penalty to give security for his peaceable behaviour.

2. SECURITY OF PROPERTY.

The provisions in the charters of community for the French towns were not less important in respect to the safety of property than the safety of person; although in one point of view this seems contradictory, since property became seizable for debts; but this was perfectly consistent with safety of property, rightly so called. In a ruder state of society, debt was considered as an obligation merely personal; and it required some slight step to have been made towards refinement, before creditors acquired a right of seizing the property of their debtors in order to recover payment. One of the first expedients for this purpose in the municipalities was, that the person who sold any commodity should receive a pledge from him who bought it, which he restored upon receiving payment. When no pledge was given, and the debtor became dishonest or insolvent, the creditor was allowed to seize his effects with a strong hand, and by his own private authority; but this violent course of proceeding was changed to another, by which the creditor was prohibited from seizing the effects of a debtor, unless by a warrant from a magistrate, and under his inspection. As soon as the interposition of the magistrate became thus requisite, regular provision was made for attaching or distraining the moveable effects of a debtor; and if his moveables were not sufficient to discharge the debt, his landed estate or other immoveable property was liable to the same distraint, and was sold for the benefit of the creditor. As this latter regulation afforded the most complete security to the creditor, it was considered to be so severe that limitations were made in the use of it; for instance, the wearing apparel, the beds, the door of a house, and the implements of labour, were exempted from this law; and as the horse and armour of a gentleman were deemed indispensable to his rank, these were also exempted. In order to render the security of property complete within

a community, every person who was admitted a member of it was obliged to buy or build a house, or to purchase lands within its precincts, or at least to bring into the town a considerable portion of his moveables. All questions respecting property were tried within the community, by magistrates and judges whom the citizens elected or appointed; because their decisions were more equal and fixed than the sentences which depended on the capricious and arbitrary will of a baron. No member of a community could be burdened by any arbitrary tax; for the superior lord, who granted the charter of community, accepted of a fixed census or duty in lieu of all demands; nor could the members of a community be distressed by an unequal imposition of the sum to be levied on the community.

These regulations with respect to person and property, gave to the inhabitants of the French towns a high sense of the value of liberty. When the barons gave the municipal charters, the townsmen bound them down, not only by themselves but by responsible sureties, to the performance of the contract. Unless the granting of the charter were a voluntary act, the nobles regarded these new institutions with great distaste; many of them agreeing with a baronial abbot that 'they were execrable inventions, by which, contrary to law and justice, slaves withdrew themselves from that obedience which they owed to their masters.' But the power, once given, was never afterwards lost, and the French feudal nobles, like those of Italy, lost a considerable amount of their influence by the establishment of communities.

Germany did not fail to exhibit instances of similar changes, in the diminution of feudal authority, by the rise of municipal power. The ancient Germans, whose hordes so greatly contributed to the overthrow of the Roman empire, had no cities. Even in their hamlets or villages they did not erect houses contiguous to each other. They considered it a badge of servitude to be obliged to

dwell in a city surrounded by walls. But when the various districts of central Europe were connected into a whole under the emperor Charlemagne, several towns and cities were gradually founded in Germany, and men became accustomed to associate and live together in one place. Many archbishoprics and bishoprics were founded; and as the holders of these took up their residence in the new towns, inhabitants gradually clustered round them. The German cities were mainly founded about the year 900 A.D. Western Germany was at that time infested by the Huns and other barbarians; and the emperor, Henry the Fowler, encouraged his subjects to settle in cities which he surrounded with walls strengthened by towers. He also enjoined or persuaded a certain proportion of the nobility to fix their residence in the towns, and thus rendered the condition of citizens more honourable than it had formerly been. From this period the number of cities continued to increase, and they became more and more populous and wealthy.

But these cities were dissimilar to those of Italy and France already referred to; they were still destitute of municipal liberty and jurisdiction. Such of them as were situated on the imperial demesnes were subject to the emperors; justice being dispensed in them by the emperor's judges and magistrates. Towns situated on the estate of a baron were deemed part of his fief; and he or his officers exercised a similar jurisdiction in them. In process of time, however, these towns acquired powers analogous to those of the Italian and French communities. The emperor Frederick Barbarossa granted municipal privileges in Germany for the same reason that had influenced Louis le Gros in France, viz., to counteract the power of the feudal nobles. The towns themselves had from several causes greatly increased in number—such as, the establishment of new bishoprics by the building of cathedrals;—the establishment of councils and courts of judicature;—the extensive enfranchisement of slaves;—the discovery of mines, which

required a considerable congregation of men in one place. The towns thus established began by degrees to form leagues for their mutual defence, for repressing the disorders occasioned by the private wars among the barons, and for resisting the exactions of these feudal nobles. This rendered the condition of the inhabitants of cities more secure than that of any other order of men, and induced many to become members of these communities. Though these cities acquired their privileges later than many of the Italian and French cities, they yet more effectually shook the foundations of the feudal system; for they obtained the right of being what was then termed 'immediate,' that is, they were subject to the empire alone, and possessed within their own precincts all the rights of complete and independent sovereignty.

It is supposed that communities were introduced into Spain about the same time, and by the operation of similar causes, as in the neighbouring countries. It is even stated in the annals of Arragon, that by the year 1118 the citizens of Saragossa had not only attained political liberty, but were declared to be of equal rank with the nobles of the second class. In England these communities were not established till after the conquest, the practice being introduced by the Conqueror from France; except in some few instances, where towns had been made into corporations by the Anglo-Saxon kings, and received confirmation of these privileges from the Norman sovereigns.

Such are the steps whereby communities or corporate towns became established in all the principal countries of Europe. It is not difficult to see that this new institution must have proved a formidable opponent to the feudal power; since, the more the spirit of combination and mutual aid existed between the townsmen, the better able were they to resist the ambitious and grasping views of the neighbouring nobles. We may, it is true, find it difficult to appreciate justly the state of society at that time, since the comparatively orderly state of civilized Europe

at the present day can give but little idea of the lawless texture of society six or eight hundred years ago; but still there are certain broad principles, whose operation is so clear that they need not be mistaken: we cannot fail to perceive that the rise of power within the walls of a town *must* have curtailed the power of the baron who lived without those walls.

CHAPTER VIII.

THE DECLINE OF FEUDALISM.

II. AS INFLUENCED BY THE CRUSADES.

Origin of the Crusades. The First Millennium. Pilgrims to the Holy Land. Molested by the Turks. Peter the Hermit. General Enthusiasm in Europe in favour of the Crusades. Inducements for joining the Crusade. Means resorted to by the Barons and Nobles for defraying the Expenses of the Expedition. Effect thereof on the Feudal System. Increase of Regal Power. Promotion of Commerce. Effects of the Expedition on the Manners of the Crusaders. Origin and Progress of Chivalry. Its Operation and Advantages to Society.

ANOTHER mighty power, whose agency tended to the downfall of feudalism, was that extraordinary enthusiasm which led to the *Crusades*. These venturous exciting enterprises had a two-fold effect towards this end—by the commercial and political relations to which they gave rise between kings, nobles, and people; and by the general tone of feeling which they promoted.

About the year 1000, the zeal which led to the *Crusades* began to display itself, after a long period of intellectual torpor. One of the first exciting causes seems to have been a kind of reverence for the places where the chief events of scripture history had transpired. Even under the gross and debased form in which Christianity was taught, there was still something in it which gave to men's minds a tendency, a superstitious yearning, towards the sacred land. The motives were not much more pure and elevated than those which have always led the Mohammedans to make pilgrimages to Mecca; but the resulting effects have been infinitely more important. The 'Millennium,' or thousand years mentioned in the Revelation, was another exciting cause to the *Crusades*. As the time approached when the

period of a thousand years from the birth of our Saviour would be completed, an idea arose that the end of the world was at hand. A general consternation seized upon mankind; many relinquished their possessions, and abandoning their friends and families, hurried with precipitation to the Holy Land, where they imagined that Christ would quickly appear to judge the world. So long as Palestine continued subject to the Caliphs, they had encouraged the resort of pilgrims to Jerusalem, because it gave rise to a beneficial system of commerce, bringing gold and silver into the country, and taking nothing but relics and trinkets out of it. But the Turks having conquered Syria and Palestine in the middle of the eleventh century, the pilgrims became exposed to outrages of every kind from the conquerors. This change happening about the juncture of the 'Millennium' panic, filled Europe with alarm and indignation, since the pilgrimages, which were more and more looked forward to as the only means of the soul's safety, became more and more hazardous. Every person who returned from Palestine related the dangers which he had encountered in visiting the holy city, and described with exaggeration the cruelty and exactions of the Turks.

Such recitals could not fail to rouse the anger and zeal of those to whom they were addressed. The tone of feeling throughout Europe became such that nothing was wanting but a spark to kindle the flame of enthusiasm; and this was produced in an insignificant quarter. A fanatical hermit, named Peter, conceived the idea of leading all the forces of Christendom against the infidels, and of expelling them from the Holy Land by violence. He hastened from province to province, with a crucifix in his hand, exciting princes and people to this holy war, and wherever he went kindled the same enthusiasm with which he himself was animated. The council of Placentia, where upwards of thirty thousand persons were assembled, pronounced the scheme to have been suggested by the immediate inspiration of heaven. In a still more numerous council at Cler-

mont, as soon as the measure was proposed, the people cried out as with one voice, 'It is the will of God!' Persons of all ranks caught the contagion; princes, gallant nobles and their followers, ecclesiastics of every order, and even women and children, embarked in the wild but enthusiastic scheme. In order to encourage them to this course, various privileges were granted by kings and princes to those who 'took the cross' (the symbol of the Crusaders). They were exempted from prosecutions on account of debt, during the time of their being engaged in holy service; they were exempted from paying interest for the money which they had borrowed in order to fit them out for these expeditions; they were exempted, either wholly or in part, from the payment of taxes; they were permitted to alienate their lands without the consent of the superior lord of whom they held; their persons and effects were taken under the protection of St. Peter, and the anathemas of the church were denounced against all who should molest them, or carry on any quarrel or hostility against them, during their absence in Palestine; they enjoyed all the privileges of ecclesiastics, and were not bound to plead in any civil court, but were declared subject to the ecclesiastical jurisdiction alone; and lastly, they obtained a plenary remission of all their sins, and the gates of heaven were presumptuously said to be set open to them, without requiring any other proof of their penitence than their engaging in these expeditions.

To detail the exciting and extraordinary events which characterised the Crusades for a period of two centuries; the destruction of successive armies; the alternate success of Turks and of Christians; the rise of the Knights Templars and the Knights Hospitallers consequent on these wars, and the effects which these long and oft-repeated contests had on the condition of Western Asia, is no part of our present subject. We have to consider only the agency which these Crusades afforded towards the gradual weakening of the feudal power. Robertson speaks of this agency as divisible into two parts—the *state of property*, and the

state of manners, and shews how the Crusades, by working changes in both, shook the stability of the feudal system.

The barons and nobles who assumed the cross, and engaged to march to the Holy Land, soon found that large sums of money were necessary towards defraying the expense of such a distant expedition, and enabling them to appear with suitable dignity at the head of their vassals. But the genius of the feudal system was averse to the imposition of extraordinary taxes; and subjects in that age were unaccustomed to pay them. No expedient remained for levying the sums requisite, but the sale of their possessions. When the nobles became inflamed with romantic expectations of the splendid conquests which they hoped to make in Asia, and entered into the idea with a zeal which eclipsed every other passion, they relinquished their inheritances with but little reluctance, and for prices far below their value, that they might sally forth as adventurers to the Holy Land. The monarchs of the European kingdoms, none of whom engaged personally in the first Crusade, eagerly seized this opportunity of annexing considerable territories to their domains at small expense. Several great barons also, who had perished in the Holy War, having left no heirs, their fiefs reverted to their respective sovereigns; and by these accessions of property the regal authority gained strength as the baronial declined. The absence, too, of many powerful vassals, accustomed collectively to controul and give law to their sovereigns, afforded the latter an opportunity of extending their prerogative, and of acquiring a degree of weight in the constitution which they did not before possess.

Thus the kings who remained at home gained some accession to their power at the expense of the nobles; and the people gained another portion in relation to commerce. The first armies of the Crusaders, which Peter the Hermit and Godfrey of Bouillon led through Germany and Hungary to Constantinople, suffered so much by the length of the march, and by the fierceness of the semi-barbarous

people who inhabited those countries, that it deterred others from taking the same route ; and rather than encounter so many dangers, they went by sea. Three Italian sea-ports, Venice, Genoa, and Pisa, furnished the transports in which the second army of Crusaders embarked ; and the sum which these cities received merely for freight was immense. But this was only a small part of their gain in these expeditions ; for the Crusaders contracted with them for military stores and provisions ; their fleets kept on the coasts as the armies advanced by land, and supplying them with whatever was wanted, engrossed all the profits of a branch of commerce which in every age has been deemed lucrative. But there was yet another advantage which these three towns, and others in a minor degree, gained through the Crusades, and which afterwards reacted to the disadvantage of the feudal nobles. As a means of inducing the Italian citizens to use redoubled efforts in supplying the wants of the Crusaders, many valuable privileges were given to them by the popes, the emperors, the Italian princes, and even by the nobles themselves. All the commodities which they imported or exported were exempted from every imposition ; the property of entire suburbs in some of the maritime towns, and of large streets in others, was vested in the merchants ; and all questions arising among persons settled within their precincts, or who traded under their protection, were appointed to be tried by their own laws, and by judges of their own appointment.

Thus, on the one hand the feudal nobles became divested of part of their power by the accession of wealth and influence which the first Crusade gave to the different European sovereigns ; and on the other hand, the cities and towns were enabled to throw off a portion of the feudal yoke by the commerce to which the Crusades gave rise. There was yet another change wrought by these expeditions, consequent on the somewhat higher state of social decorum and feeling, which deserves notice.

The barons, and still more their vassals, were in a very

rude state in all that respects the courtesies and decencies of society. Immured in their castles, or otherwise engaged in the turmoils of war, they knew little of the amenities of life, and were incapable of appreciating the gentler and more kindly feelings of polished society. But when, urged onward by the crusading zeal, they passed through Constantinople to the Holy Land, they found a country better cultivated and more civilized than their own. Though the military spirit had long been extinct in the Constantinopolitan empire (the Eastern branch of the divided Roman empire), and a despotism of the worst species had annihilated almost every public virtue, yet Constantinople, having never experienced the destructive irruptions of the barbarous nations, continued to be the most extensive, as well as the most beautiful city in Europe, and the only one in which yet existed any indications of the ancient elegance in manners and arts. The naval power of the Eastern empire was considerable; manufactures of many curious and costly articles were carried on within its dominions; the capital was the chief mart in Europe for the commodities of the East Indies; and from all these sources not only wealth flowed into the empire, but taste, manners, and even science, made a greater advancement there than in most of the European states at that time.

It was not to be expected that the Crusaders could travel through so many countries, and behold their various customs and institutions, without acquiring information and improvement. Their views became enlarged; their prejudices wore off; new ideas flowed into their minds; and they must have been sensible on many occasions of the rudeness of their own manners when compared with those of a more polished people. These impressions were not so slight as to be effaced upon their return to their native countries. They revisited Europe, bringing with them many of the customs to which they had been familiarized by a long residence abroad; and in the subsequent ages it was to be seen that there was greater splendour than

before in the regal and princely courts, greater pomp in public ceremonies, a more refined taste in pleasures and amusements, together with a more romantic spirit of enterprize. These mixed results may not at first seem of any great importance as moral agents; but they were all steps taken in a new direction; they all indicated a partial abandonment of the rude mechanism of the feudal system, and a softening of the rigours attendant on a state of petty but perpetual warfare between neighbouring barons.

Another effect of the Crusades, tending to soften the feelings, and to impart more generous motives for action, and thereby to deaden the feudal spirit, was the practice of *chivalry*. By this term is generally meant a voluntary defence of the holy, the beautiful, or the innocent, without pay, but from a warm and generous motive. When men were urged to go to the Holy Land to fight for the cross, the church instilled into them the idea that it was an heroic act to use their strength of arm in defence of that which was deemed good. On their return the same feeling remained, but it displayed itself differently. It then became customary to defend the fatherless and the helpless, and especially to give to *woman* that consideration which she had never received during the dark feudal ages. Sir Walter Scott has treated this subject so eloquently in his Essay on Chivalry, that we may perhaps be allowed to quote a few passages. After speaking of the superstition which mingled with the chivalry of the Crusaders, he says: 'But although, as is incidental to human institutions, the mixture of devotion in the military character of the knight degenerated into brutal intolerance and superstition in its practical effects, nothing could be more beautiful and praiseworthy than the theory on which it was grounded. That the soldier drawing the sword in defence of his country and its liberties, or of the oppressed innocence of damsels, widows, and orphans, or in support of religious rights, for which those to whom they belonged were disqualified by their profession to combat in person,—that

he should blend with all the feelings which these offices inspired, a deep sense of devotion, exalting him above the advantage, or even the fame which he himself might derive from victory, and giving dignity to defeat itself, as a lesson of divine chastisement and humiliation,—that the knight on whose valour his countrymen were to rely in danger, should set them an example in observing the duties and precepts of religion,—are circumstances so well qualified to soften, to dignify, and to grace the profession of arms, that we cannot but regret their tendency to degenerate into a ferocious propensity to bigotry, persecution, and intolerance.’

The above remarks were made in relation to certain ideas of chivalry connected with the existing state of religion in all its grossness and misconstruction. But with reference to chivalry which had the protection and advancement of woman for its object, it took a different form. The same writer shews that respect for women was more deeply implanted in the German nations than in most others at that time, distinguishing those semi-barbarians favourably from the others, and even from the Romans, whom they conquered. In later times, when the usages of chivalry sprang up among the feudal nobles, this German ingredient in their thoughts and feelings became peculiarly fitted to amalgamate therewith. ‘Amid the various duties of knighthood, that of protecting the female sex, respecting their persons, and redressing their wrongs, becoming the champion of their cause, and the chastiser of those by whom they were injured, was presented as one of the principal objects of the institution. Their oath bound the new-made knights to defend the cause of all women without exception; and the most pressing way of conjuring them to grant a boon was to implore it in the name of God and the ladies. The cause of a distressed lady was in many instances preferable to that even of the country to which the knight belonged. Thus the Captal de Buche, though an English subject, did not hesitate to unite his

troops with those of the Compté de Foix, to relieve the ladies in a town where they were besieged and threatened with violence by the insurgent peasantry. The looks, the word, the sign of a lady, were accounted to make knights at time of need to perform double their usual deeds of strength and valour. At tournaments and in combats the voices of the ladies were heard, like those of the German females in former battles, calling on the knights to remember their fame, and exert themselves to the utmost. 'Think, gentle knights,' was their cry, 'upon the root of your hearts, the nerve of your arm, the love you cherish in your breasts, and do valiantly, for ladies behold ye.' The corresponding shouts of the combatants were, 'Love of ladies! Death of warriors! On, valiant knights, for you fight under fair eyes.'

All this may have been, and was, carried to a ridiculous excess, but it prepared the way for an amelioration of manners, and was thus indirectly instrumental in the decay of the hard, stern, unsocial, and unsensitive feudal system.

CHAPTER IX.

THE DECLINE OF FEUDALISM.

III. AS INFLUENCED BY IMPROVEMENTS IN THE LAWS.

The Roman Law. Discovery of the Pandects of Justinian in the Twelfth Century. Colleges of Civil Law founded. Improved Systems of Jurisprudence. The Legal Profession rises in Public Estimation. The Canon Law. It gradually supersedes Trial by Combat and by Ordeal, and diminishes the Authority of the Barons' Courts. Royal Law Courts. Attempts of Monarchs to lessen the influence of the Barons' Courts. Courts of Appeal established. Court of Appeal in France. Saint Louis. Establishment of Parliaments. The Parliament of Paris. Courts of Appeal under William the Conqueror and Henry II. Assizes. Justices of the Peace. The King's Courts in Scotland. Lords of Session. Lords of Daily Council. College of Justice. Decline of Feudalism.

THE ROMAN LAW.

It may naturally be supposed that the demolition of the Roman empire by the barbarians occasioned also the destruction of those institutions which had done honour to the Romans, as well as those which had fallen into disrepute from their uselessness or unworthiness. Among the former was the system of jurisprudence, one of the finest features in the Roman polity. From this system it appeared that the Romans entertained respect to objects of which a rude people had no conception, and were adapted to a state of society with which the latter were unacquainted. For this reason, wherever the invaders settled, the Roman jurisprudence either ceased to exist, or it became overlaid with the rude attempts at jurisprudence made by the Franks, the Lombards, the Gauls, and other nations.

But towards the middle of the twelfth century, a copy of Justinian's 'Pandects' was accidentally discovered in Italy. These Pandects form a digest, or collection, made

by Justinian, of five hundred and thirty-four decisions, or judgments of the Roman lawyers on so many questions occurring in the civil law, to which that emperor gave the force and authority of law, by an epistle prefixed to them. The copy thus discovered had been written on vellum, or parchment, at Constantinople, in the beginning of the seventh century, and was transported by the accidents of war, or commerce, to Tuscany, where it was discovered in 1137.

If this discovery had taken place at an earlier period, its value would probably not have been appreciated; the seed would not have found a soil in which to spring up and bear fruit. But by this time the state of society had so far advanced, that many persons were struck with admiration at a system which their ancestors could not have comprehended. Though they had not hitherto attained such a degree of refinement as to acquire from the ancients a taste for philosophy or speculative science; though they were still insensible, in a great degree, to the beauty and elegance of classical composition, they were sufficiently qualified to judge with respect to the merit of their system of laws, in which many points most interesting to mankind were settled with precision, discernment, and equity.

Men of letters began to study these Pandects with avidity. A college of civil law was opened at Bologna very soon after the discovery of this long-concealed treasure. The Roman law (afterwards better known as the *civil* law) was taught as a part of academical learning in different parts of France, before the middle of the same century. In England, in Scotland, and in other countries, the study of the Roman law became, in like manner, part and parcel of what was then deemed a liberal education. Now the effects of having such an excellent model to study and to imitate, were immediately perceived. Men, as soon as they were acquainted with fixed and general laws, perceived the advantage of them, and became impatient to ascertain the principles and forms by which judges should

regulate their decisions. Such was the ardour with which these new students carried on an undertaking of so great importance to society, that before the close of the twelfth century, codes of law were established in most of the countries of Europe, the older customs of the country being collected together into one code, and another code formed on the basis of the Roman law; or in some cases attempts were made, which were partially successful, to amalgamate the chief features of the Roman law with the rude common or traditionary law of the country.

Such being the origin of an improved system of jurisprudence, a little consideration will shew how it tended to lower the power and authority of the feudal nobles, by raising up a new force, in which intellect was to perform its part. When the administration of the law became more strictly attended to than it had been during the earlier periods of the feudal system, it obliged men to cultivate different talents, and to aim at different accomplishments, in order to qualify them for the various departments and functions which became necessary in society. So long as a nation is rude and uncivilized, the profession of arms is the only one deemed honourable; all the ingenuity and vigour of the people are expended mainly in the acquisition of military skill and address; the functions of peace being few and simple, and requiring no particular course of education or study. This was the state of Europe during several centuries. Every gentleman was born a soldier, and he scorned any other occupation; he was taught no science but that of war, even his exercises and pastimes were feats of martial prowess. Nor did the judicial character, which persons of noble birth were alone entitled to assume, demand any degree of knowledge beyond that which such untutored soldiers professed. To recollect a few traditionary customs which time had confirmed and rendered respectable, to mark out the lists of battle with due formality, to observe the issue of the combat, and to pronounce whether it had been conducted in accordance with the laws of arms,

included every thing that a baron, who acted as a judge, found it necessary to understand.

But when the mode of administering justice, and the laws laid down for the guidance of the judge became, from the causes just explained, more fixed and determined, the profession of a lawyer, as distinct from a soldier, rose gradually into importance. Law became a science, the knowledge of which required a regular course of study, together with long attention to the practice of courts. Martial and unlettered nobles had neither leisure nor inclination to undertake a task so laborious, as well as so foreign to all the occupations which they deemed entertaining, or suitable to their rank. They gradually relinquished their places in courts of justice, where their ignorance often exposed them to contempt. They became weary of attending to the discussion of cases which grew too intricate for their comprehension. Not only the judicial determination of points which were the subject of controversy, but the conduct of all legal business and transactions, was committed to persons trained by previous study and application to the knowledge of law. An order of men to whom their fellow-citizens had daily recourse for advice, and to whom they looked up for decision in their most important concerns, naturally acquired consideration and influence in society. They were advanced to honours which had been considered hitherto as the peculiar rewards of military valour. They were entrusted with offices of the highest dignity and most extensive power; and thus a new profession became introduced and honoured in society.

THE CANON LAW.

There was another kind of jurisprudence which, by offering certain advantages in the administration of justice, tended to draw men as much as possible from the law-tribunals of the feudal barons, and thus to break the link of judge and suitor, which was one of the bonds of the feudal system. This was the *canon* or *ecclesiastical law*.

In some respects it was a formidable and dangerous code of laws, because it assisted the clergy in the usurpation of power and jurisdiction not consistently belonging to them, and it aided to give the popes a despotic power over all the monarchs of Europe; but in relation to the rights and properties of individuals, this code contained much that was advantageous to the mass of the people, compared with the rude and undigested regulations by which the decisions of the barons' courts were guided.

At first, there can be little doubt that these laws were made rather for the benefit of the legislators than of the people; but policy afterwards led the Romish clergy to give to this form of laws as popular a tone as possible. They were almost the only persons who had retained a knowledge of the fundamental points of the old Roman laws; and they constructed their code of canon law in some measure upon the former. The people had become so much harassed by the wavering, the unscrupulous, and the unjust decisions of the feudal tribunals, that they looked to the canon law and the ecclesiastical tribunals as something to be desired, because the decisions were clear, distinct, and uniform. It thence resulted, that exemption from civil jurisdiction was courted as a privilege, and conferred as a reward. The trial by combat, or by ordeal, was felt to be an uncertain mode of decision, even by those who regarded it with superstitious reverence; hence the decisions of courts where witnesses were examined and evidence weighed, were regarded as important desiderata. Any error or injustice in a sentence pronounced by a baron to whom feudal jurisdiction belonged, was irremediable because originally it was subject to the review of no superior tribunal; whereas the ecclesiastical law established a regular gradation of courts, through all which a cause might be carried by appeal, until it was determined by that authority which was held to be supreme in the church. There were also many of the laws themselves, independent of the mode of administering justice in conformity with them, much

more equitable than those to which the people had been accustomed under the baronial sway. Many of the laws now in operation in European countries, with respect to personal security and private property, were derived from the canon law, and were inconsistent with the more wavering and unequal law of the feudal tribunals. It was soon perceived, from the ecclesiastical decisions, that there was a more rational and satisfactory mode of settling a dispute than by combat between the contending parties, in which, if the aggressor happened to be stronger or more skilled in the use of weapons than his opponent, he might gain the victory, and consequently the verdict, thus leaving the injured party doubly injured.

REGAL LAW-COURTS.

Besides the improvements in the laws themselves, by the introduction of new codes, or the recovery of old ones, there was a marked interference with the power of the feudal barons, and a step made towards their ultimate decline, by the increased efficacy given to the royal courts, and the desire, on the parts both of the monarchs and of the people, to take jurisdiction away from the nobles.

The right which feudalism gave to the barons, of being both prosecutors and judges in their own courts, was regarded with considerable jealousy by the monarchs of Europe; but they were not powerful enough to overturn the system by violent means, and therefore took advantage of such circumstances, as they arose, which tended to diminish its extent and importance. Various expedients were adopted to this end; one of the first of which was to declare that the baron's judicial privileges should relate only to causes of minor importance, reserving those of greater moment to be classed as *royal causes*, or *pleas of the crown*, to be decided in the royal courts. But it was only with the nobles of minor power that this plan could be carried out; for the more influential of the class scorned to submit to such a rule, and in many cases compelled their sovereign to confirm their

judicial privileges by charter. Still there was something gained, when the courts of the inferior barons gave up the decision of important cases to the crown ; for the people began to feel that there was a limit to the tyranny (if tyranny it happened to be) of their feudal superiors ; and that the more important their law-suits might be, the more probability there was that the impartiality of the royal tribunals would be brought to bear on them.

Another mode of introducing a change was by granting to the vassals of a baron the power to appeal to the crown against the decisions of the baron's court. So long as trial by combat continued in use, (and this was the mode of trial which the feudal barons preferred), anything in the shape of an appeal would have been deemed almost impious ; because it was irreverently assumed that the victor had his verdict delivered from a higher tribunal than any which man could appoint. It was long before this reverential feeling towards trial by battle passed away ; but in time, other modes of procedure were adopted in the baronial courts. The monarchs endeavoured to promote the custom of appealing from the barons' courts to the royal courts, whenever the contending parties were not satisfied with the decision. At first, these appeals occurred only when there was a great delay, or an actual refusal of justice on the part of the baron ; and to this extent the custom came into use with comparative facility ; but when the appeals assumed such a shape, that they were intended to overturn the decisions of the feudal tribunals, the barons perceived that their privileges were seriously assailed, and they strenuously resisted this royal encroachment. In some cases, the sovereigns had to give way ; but generally they pursued their course quietly, and attained the desired object step by step. The royal courts were at first ambulatory, and irregular in respect to the times of meeting ; but it was felt that they would acquire an increase of importance, respect, and utility, in the estimation of the people, if they were appointed to be held at certain stated places, and at fixed

times. The judges, too, were chosen with especial reference to their skill and equitable views, and an air of personal dignity was thrown around them, to increase their claim to honour and respect.

The effect of these arrangements, quietly and judiciously brought about, was soon perceived. The people were anxious to bring their causes before the royal, instead of the baronial tribunals; and as kings and people were thus united for the attainment of the same object, they gradually gained an ascendancy over the barons in all that related to judicial proceedings. In some cases, the baron found the amount of legal business transacted in his court so insignificant, that he made a virtue of necessity, and abandoned it altogether; while, in other cases, it became confined to minor causes, and was harmless, if not beneficial.

The manner of appointing the royal courts of judicature was different in different countries. In France, the appellants were originally accustomed to go to the monarch in person, and state their grievances to him, receiving from him such redress as he thought fit to award. St Louis (a monarch who received that appellation on account of the excellence of his disposition and conduct) was accustomed to sit under the shade of an oak in the wood of Vincennes, and administer justice to all who applied to him. When, in later times, the extent and complexity of the appeals rendered it impossible for the king to attend to them in person, he appointed *baillis* in different districts, to administer justice in his name. These baillies were so regulated, that their interests were directly antagonistic to those of the barons, in their courts, and the baillies' courts gained all which the barons' lost. Afterwards, these baillies' courts were superseded by *parlements*, or *parliaments*, courts of greater dignity and power, fixed in one particular spot, and endowed with great privileges.

The word *parliament*, as used in England, does not convey the same sense as it did in France in past years. With us, it is an assembly for *making* laws; at that time,

it was an assembly for *administering* laws, although it seems probable that the legislative function became afterwards combined in a certain degree with the judicial. It was about the year 1300, that the *parlement of Paris*, the first of these tribunals, was established; and it was followed by others in different parts of France, not however without a severe struggle against the powerful barons, who were very little disposed to yield up their judicial functions to these parlements.

In England, if we substitute the word *assizes* for *parlements*, we may have a change analogous in principle. William the Conqueror, as a first step towards a royal court of appeal, established a judicial tribunal in the hall of his palace, and from that has arisen the system followed to the present day; for the courts of law at Westminster are considered to be held in, or within the precincts of the sovereign's palace, and the sovereign is supposed to be present at them by proxy. Henry II. made a change in the judicial proceedings of the feudal barons in the country, by dividing England into six circuits, and sending itinerant judges to hold courts therein at stated periods. At a later period, a further advance was made in the same direction, by the appointment of justices of the peace in each county.

In Scotland, the feudal power was as great as in any other country, and in some cases greater. The influence of the baronial tribunals was such, that the king's courts scarcely extended beyond the mere domains of the sovereign; and it was long before the royal jurisdiction assumed any importance. One of the first steps was made by James I. of Scotland. He made choice of a certain number of persons, whom he designated *lords of session*, and appointed them to hold courts for determining civil causes, three times in the year, and forty days at a time, in whatever place he pleased to name. Their jurisdiction extended to a tolerably wide range, and was deemed final. Another monarch imposed severe penalties upon those judges appointed by the barons, whose decisions should be found to be unjust; and

by many other regulations he sought to extend the authority of his own courts. James IV. appointed *lords of daily council*, who met at Edinburgh, in addition to the *lords of session*, who were ambulatory, and met but seldom. At a subsequent period, the *College of Justice* was appointed, which acquired the powers of both the former. Privileges of great importance were granted to its members, its forms well prescribed, its terms fixed, and regularity and power given to it. The judges were superior to those who presided in the barons' courts, in respect to their greater skill in law; and as their decisions were more uniform and consistent, they naturally obtained a higher degree of respect from the mass of the people. The crown thus gained insensibly on the nobles, and the king became more and more regarded as the source of justice to all his people.

It was by such steps as these, that in all the European countries the feudal principle became weakened by the gradual transference of judicial power from the nobles to the crown. The great and important feature in this change is, that the inclinations of the people sided completely with the views of the monarchs, and thus enabled the latter to work out the effects which could not otherwise have resulted. The very nature of the feudal system was inconsistent with the central and general government of a sovereign, and thus the sovereign was often well pleased to curb the power of those who were very little beneath himself in real power. In some points, the feudal barons protected the people from certain hardships to which they would have been subjected by the kings; but as respects the administration of justice, the kings beneficially protected the people against the barons.

CHAPTER X.

THE DECLINE OF FEUDALISM.

IV. AS INFLUENCED BY CONSTITUTIONAL GOVERNMENT.

Popular Representation chiefly due to the Municipalities. Early Forms of Representative Government. Gradually lost after the Death of Charlemagne. Philip the Fair of France levies Taxes on the Feudal Nobles. He convokes a *States General*. The Influence of this Assembly on Feudalism. A Committee of Nobles, Clergy, and Burgesses formed to collect the Taxes. Diets, Parliaments, Cortes, &c. assembled in other Countries. Their Effects on the Progress of Civilization. Abolition of Serfs. Establishment of Schools and Colleges. The Course of Education therein. The Progress of Commerce.

THE diminution of the feudal power by the transference of judicial functions from the barons to the monarchs, though a very important stage, was not perhaps so effectual in bringing about its final decay, as the rise of political power among the people. When once the middle classes (although the lower classes remained still without legitimate power) began to have a voice in the making of the laws, and in the general government of the country, a successful blow was aimed at the power of the nobles, who found themselves in a position where they had to treat with something like equality those whom they had before regarded contemptuously as inferiors.

When the inhabitants of cities obtained personal freedom and municipal privileges, they could not long remain without political power, in the sense in which we now use the term. Before the rise of these municipalities, the people had no voice in the general government of the nation. If the king chose to call a council or assembly, for the consideration of important matters relating to the country at large, such a council was composed of the barons and the dignified ecclesiastics. The towns, whether situated within

the sovereign's domain, or on a baronial fief, had no political existence, except as part of such domain or fief, and had no voice in the general affairs of the nation, the holder of the fief representing at the council all those who were under him. But when the towns had a separate legal and national existence, independent of the nobles, they soon acquired a right to participate in the legislative proceedings of the body politic. As the chartered towns and cities acquired by their charter the right of refusing all taxes or subsidies for municipal affairs, except with their own consent, they naturally extended that same privilege to a wider field, and demanded that they should not be taxed for the national service without having a voice in the affairs. The wealth and importance of these communities disposed the monarchs to attend to suggestions coming from them ; for it was deemed of importance to secure such bodies as friends, in case the ambition of the barons should render the throne insecure,—thus strengthening the bond which united the king to the people.

The rise of popular power, as a check to the legislative privileges of the feudal barons, has been traced with great fulness by Mr. Hallam, and may be here taken as an example of the steps generally followed. But in order to shew how the people gained a small amount of political power at the expense of the nobles, it will be necessary to explain first, how the nobles had deprived the people of such political power as they had previously possessed.

Arbitrary rule was uncongenial to the Franks who settled in Gaul, or France, on the founding of the French kingdom. Neither the power of making laws, nor that of applying them to particular cases, was left wholly to the sovereign. The same indeed may be said of the various tribes who came from Germany and settled in Italy ; they had a voice in the making of the laws by which they were governed. The Lombard kings held assemblies every year at Pavia, where the chief officers of the crown and proprietors of lands deliberated upon all legislative measures in the pre-

sence of the multitude. After the death of Charlemagne, when the crown fell into the hands of less energetic sovereigns, these public assemblies in various parts of France and Italy fell into disuse, and the political power of the people was almost entirely lost. The only remnant of this power, which existed during many generations, was exerted at the election of sovereigns, at a time when the hereditary system had not yet attained its full influence; the election was always said to be 'with the consent of the multitude,' as well as of the temporal and spiritual aristocracy. Whether any real power was thus invested in the people, may perhaps be doubted; for though they might sanction the election by their approval, it does not appear that they could annul it by their veto.

There continued to be some slight vestige of popular influence in the legislature during the reigns of the first few successors of Charlemagne; but this declined, and a long interval elapsed, during which there was no popular exercise of political power. Occasionally, however, the kings summoned a royal council to assist in determining some great national measures. Thus in 1146, Louis VII. summoned an assembly, in which one of the crusades was determined on; and the prelates and barons agreed at that, or another assembly held during the same reign, that private war should cease for ten years, as a means of concentrating the efforts of all on the crusades. But the people were not admitted into these national assemblies or councils; nor does it appear that they were so admitted during the reigns of the Capet dynasty of kings. Upon occasions, when the necessity of common deliberation, or of giving new provisions more extensive scope than the limits of a single fief, was too glaring to be overlooked, congresses of neighbouring barons met, in order to agree upon resolutions which each of them undertook to execute within his own domains; the king being sometimes a contracting party, but without any coercive authority over the rest.

But the first decisive evidence of the revival of popular

power in French legislation, was given in the reign of Philip the Fair, after a long series of events had gradually strengthened the crown against the nobles, but without raising the influence of the people. This monarch was ambitious and unscrupulous, and after succeeding in lessening the power of the nobles in many ways, he at length endeavoured to make them contribute to the expenses of the government. The feudal privilege of immunity from taxation still remained in force, and embraced the whole extent of their fiefs, and their tenantry of every description; so that the sovereign could no more lay a tax upon the demesne towns of his vassals, than upon themselves. Thus his resources, in point of taxation, were limited to his own domains. Philip had already, by debasing the coin, and by laying heavy taxes on the vassals of his own estate, raised a considerable revenue; but as the political schemes in which he was engaged rapidly drained his coffers, he sought how he might make the people a medium for getting subsidies from the barons, and from the nation generally. For this purpose he convoked a *States General*, which was a representative body, composed of the three orders of the nation. They were first convened in 1302, but their earliest grant of a subsidy was in 1314. In this assembly the deputies of towns took part, in the same manner as the members for a borough sit in the English parliament. 'It is impossible,' says Mr. Hallam, 'not to perceive the motives of Philip in embodying the deputies of towns, as a separate estate in the national representation. He might, no question, have convoked a parliament of his barons, and obtained a pecuniary contribution, which they would have levied upon their burgesses and other tenants. But, besides the ulterior policy of diminishing the control of the barons over their dependents, he had good reason to expect more liberal aid from the immediate representatives of the people, than through the concession of a dissatisfied aristocracy. He must be blind indeed, says Pasquier, who does not see that the roturier was expressly summoned to this assembly contrary

to the ancient institutions of France, for no other reason than that, inasmuch as the burden was intended to fall principally upon him, he might engage himself so far by promise, that he could not afterwards murmur, or become refractory. Nor would I deny the influence of more generous principles: the example of neighbouring countries, the respect due to the progressive civilization and opulence of the towns, and the application of that ancient maxim of the northern monarchies, that whoever was elevated to the perfect dignity of a freeman, acquired a claim to participate in the imposition of public tributes.'

In the years 1335 and 1336, the States General took up a bolder position than they had hitherto assumed, by demanding that those who paid the taxes should also collect them, and should advise the king on political matters generally. They nominated a committee, chosen out of the three orders (nobles, clergy, and burgesses), which was to sit after their separation, and which the king bound himself to consult, not only as to the internal arrangements of his administration, but even upon every proposition of peace or armistice with England. Deputies were despatched into each district, to superintend the collection of the taxes. For several years before and after the battle of Poitiers, when the French crown was in considerable danger from the successes of the English army, the States General possessed much power, and gave something like a constitutional tone to the French government at that time. But the king, surrounded by evil counsellors, thought the States General were assuming too much power, and dismissed them. Being thus deprived, or rather having deprived himself, of the subsidies which they had been accustomed to grant him, he descended to the dishonest expedient of debasing the coin; that is, to make all government payments in a coin debased by alloy below its nominal value, while payments to the government were required to be of standard quality. This unworthy robbery, which has been resorted to by unscrupulous monarchs in different countries at various times, exas-

perated the people, and he had again to assemble the States General.

We need not follow the successive stages of this system. The *States General* in one country, the *Diet* in another, the *Parliament* in another, the *Cortes* in another—were all manifestations of the principle of popular representation. Sometimes they advanced with rapidity, sometimes they made slow progress; in other cases, as in that of Charles VII., the monarch attempted to carry on the government without the aid of the popular representatives; but such attempts were vain. When once the principle of popular representation was admitted, the influence of the feudal nobles declined, while that of the people was augmented. The effects resulting from the introduction of popular representation are thus clearly stated by Robertson: ‘It tempered the rigour of aristocratical oppression with a proper mixture of popular liberty. It secured to the great body of the people, who had formerly no representatives, active and powerful guardians of their rights and privileges. It established an intermediate power between the king and the nobles, to which each had recourse alternately, and which at some times opposed the usurpations of the former, on other occasions checked the encroachments of the latter. As soon as the representatives of communities gained any degree of credit and influence in the legislature, the spirit of laws became different from what it had formerly been; it flowed from new principles; it was directed towards new objects; equality, order, the public good, and the redress of grievances, were phrases and ideas brought into use, and which grew to be familiar in the statutes and jurisprudence of the European nations. Almost all the efforts in favour of liberty in every country of Europe, have been made by this new power in the legislature. In proportion as it rose to consideration and influence, the severity of the aristocratical spirit decreased, and the privileges of the people became gradually more extensive, as the ancient and exorbitant jurisdiction of the nobles was abridged.’

It was the rise of municipal establishments which led, perhaps more than any other circumstance, to the custom of emancipating feudal serfs. The inhabitants of country districts, seeing the advantages which the inhabitants of towns gained by these privileges, longed to procure a similar degree of liberty; and even the feudal lords, sensible of some of the advantages which would result from such a course, began in many instances to give complete, or partial freedom to their slaves. The monarchs, too, feeling that the more they elevated the people, the better they could curb the power of the nobles, encouraged this system of emancipation, and acted on it in respect to their own serfs. The steps by which this important object was obtained, have already been shewn, and it only remains to notice the effects which it produced on the mass of the people,—effects which at the time elevated the mental and moral condition of the people, and added another to the agencies which disturbed the feudal power. The husbandman, becoming thus master of his own industry, and assured of reaping for himself the fruits of his labour, became the farmer of the same fields where he had before been compelled to toil for the benefit of others. By the extinction of domestic slavery, new prospects opened, and new incitements to ingenuity and enterprise presented themselves to the humbler classes. The expectation of bettering their fortune, as well as that of raising themselves to a more honourable condition, concurred in calling forth their activity and genius; and a numerous class of men, who formerly had no political existence, and were employed merely as instruments of labour, became useful ‘citizens, and contributed towards augmenting the riches of the whole community.

The rise of municipal corporations also tended to advance the progress of civilization, by giving ‘a local habitation and a name’ to institutions for education, and the cultivation of literature.

When cathedrals became established in the towns which had acquired municipal privileges, colleges or schools be-

came by degrees attached to them. The schools were chiefly restricted to the teaching of grammar, one or two masters only being employed in each. But in colleges, professors were appointed to teach the different departments of the science of the time. This method of confining the studies to grammar in the schools, arose principally from the paucity of books in the spoken languages, nearly all being written in Latin, which language therefore required first to be studied. All the living languages of Europe were then considered to be barbarous, and destitute of elegance and dignity; and no attempt had hitherto been made to improve them. The Latin tongue was not brought into common use, but was consecrated to the services of religion; hence, when the study of literature began to revive after so long a period of mental darkness, Latin was deemed the only language of dignity sufficient to express the thoughts of a writer; and hence Latin became the language of literature and science, as well as of theology.

At the cathedral and monastic colleges the course of education was fixed and regular. The time that was to be allotted to the study of each science was prescribed, a regular form of trying the proficiency of students was established, and academical titles and honours were conferred on such as acquitted themselves favourably. These academical degrees appear to have been established at Paris about the beginning of the thirteenth century, and were afterwards introduced into the collegiate institutions of other countries. It was a marked point, in relation to the influence of these institutions on the feudal system, that 'doctors' in the different faculties at the universities, being the highest grade of academical honour, contended with knights for precedence, and the dispute was terminated in many cases by advancing the former to the dignity of a knight. It is easy to see that when mind thus entered the lists against feudal prerogative, the latter must have been divested of many privileges and sources of power.

The commerce, too, to which the people in the chartered

towns directed their attention, had considerable influence in enlarging their liberties, and giving them a power which the barons could not successfully oppose. The Italians, by their connexion with Constantinople and other towns of the Greek empire, enjoyed in their own country the commodities and manufactures of the East; and this taste was greatly increased by the trading consequent on the crusades. Thus an inclination for the refinements and luxuries of life arose, which gave employment to a large body of merchants, who kept up a constant stream of intercourse between the Italian cities and the countries of the East. The people thus began to look abroad; they broke through the narrow conventionalities which had prevailed in the interpretation of such words as 'society,' 'country,' 'nation,' and 'mankind;' and they were thus in a condition to assail the fundamental principle of feudal power. In the Netherlands, too, a spirit of commerce and manufactures arose; in England, the same occurred under Edward III.; while over the whole north of Europe, an extraordinary confederation, known by the name of the *Hanseatic League*, and formed originally for commercial purposes only, gradually acquired a power which affected the German barons as much as the commerce of Venice, Genoa, and Pisa, affected the Italian barons.

All this, as it was in part the consequence of a rise in the political and social power of the people, so did it also tend to increase that power; thus strengthening the agency which gave it birth, and weakening that feudal authority which was now slowly crumbling into dust.

CHAPTER XI.

THE DECLINE OF FEUDALISM.

V. AS INFLUENCED BY THE INCREASE OF KINGLY POWER.

Inherent Weakness and Defects of the Feudal System. Military Attendance of the Feudal Lords and their Retainers insufficient for National Defence. Remedy adopted. Fines for Default of Military Attendance expended in hiring Troops. Origin of the 'Standing Armies' of Europe and of Alliances between different Nations. The Contests between England and France lead to the downfall of the Feudal System in the latter Country by maintaining the Standing Army. Conduct of Louis XI. He completes the Downfall of the Feudal System in France. Conduct of Henry VII. of England. Downfall of the Feudal System in England, Spain, Italy, and Germany.

THERE were internal sources of decay which would have destroyed the feudal system, even if all the various circumstances which have been narrated had not operated: one of its weakest points was the want of unity of action among the feudal barons as members of one nation.

'No political institution,' says Mr. Hallam, 'can endure, which does not rivet itself to the hearts of men, by ancient prejudice or acknowledged interest. The feudal compact had originally much of this character. Its principle of vitality was warm and active. In fulfilling the obligations of mutual assistance and fidelity by military service, the energies of friendship were awakened, and the ties of moral sympathy superadded to those of positive compact. While private wars were at their height, the connexion of lord and vassal grew close and cordial, in proportion to their enmity towards others. It was not the object of a baron to disgust and impoverish his vassals by enhancing the profits of seigniorial ; for there was no rent of such price as blood, nor any labour so serviceable as that of the sword. But the nature of feudal obligation was far better adapted to the partial quarrels of neighbouring lords than to the

wars of kingdoms. Customs, founded upon the poverty of the smaller gentry, had limited their martial duties to a period never exceeding forty days, and diminished according to the subdivisions of the fief. They could undertake an expedition, but not a campaign; they could burn an open town, but had seldom leisure to besiege a fortress. Hence, when the kings of France and England were engaged in wars, which on our side at least might be termed national, the inefficiency of the feudal militia became evident.'

The nobles were not much disposed to regret this inefficiency for national purposes, since they desired to keep down the kingly power. The monarch could not insist on the attendance of many more troops than the vassals on his own domain, and was obliged to be content with the military aid afforded by the feudal tenure. Even if the army for the national defence had been more numerous and permanent, it would yet have been weak from the predominance of cavalry over infantry. In the flourishing times of the Roman republic, infantry was the most valuable part of the army; and it is always considered that infantry is more effective for conquest or defence than cavalry. But the Romans, in their effeminate state under the empire, allowed their infantry to fall into disuse, and gave their preference to cavalry as exposing the soldier to fewer hardships: this accelerated the conquest of the empire by the barbarians. In after times the feudal barons in like manner preferred cavalry to infantry, not perhaps on account of fatigue, but as a symbol of superiority, especially when the crusades and tournaments had given rise to a glittering display of horses and armour. When, therefore, during the wars and contests of the thirteenth and fourteenth centuries, the barons and their retainers joined the monarch in martial form, the barons, knights, and all who had any skill in military tactics, appeared on horseback, while the infantry consisted of the dregs of the people, badly armed and badly disciplined.

When the kings of England and of France became possessed of the sovereignty—nominal if not real—the military tenants of a large extent of country could not engage on distant service within their usual term of forty days, to which they were bound, even if the inclinations of the barons had tended that way. A remedy had therefore to be found, before this state of things could be amended, and anything like national operations carried on. The first expedient was to keep the crown vassals in service after the expiration of their forty days, at a stipulated rate of pay. But this was frequently neither convenient to the tenant, who was anxious to return back to his household, nor to the king, who could not readily defray the charges of an army. It was necessary therefore to devise some other expedient, even though less consistent with the feudal system. By the feudal law, the fief was in strictness forfeited by neglect of attendance upon the lord in any expedition. By a milder usage, as the beginning of a new system, a fine was imposed, by which the superior or monarch obtained money for the furtherance of his designs. These fines were often very heavy, and imposed arbitrarily. William of Normandy was very rigid in the exaction of them; and some years afterwards, when the conduct of king John led to the compulsory demand of Magna Charta, it was deemed important to regulate this part of the kingly privileges by defined rules.

When once the king obtained money as a fine for default of military attendance, he had the means of providing mercenary troops, hired expressly to fight his battles, and to remain in arms at his pleasure. Before the feudal system came to full vigour, every man was called on to defend his country; under the feudal tenure, every man was bound to fight the battles of his liege lord, whether for the country's good or not; but under this altered system, a hired body of fighting men arose, which is considered to be the origin of the 'standing armies' of modern Europe.

This formation of a national force was one of the means

whereby nations became allied in order to repress ambitious projects on the part of a common enemy : this again tended to lower the power of the feudal barons, opening to general view a more comprehensive prospect of actions and motives, than the limits of a fief would afford. At the present day every European nation is acquainted with the general tenor of the political proceedings in all the others ; and if one monarch oversteps the bounds of his legitimate authority, he is soon checked by other governments, or by an alliance of the forces of two or more nations. But in the times to which reference is now made, no such concerted arrangement could exist ; each country was not only partitioned into a number of petty sovereignties or fiefs, but was socially dis severed from other countries, each one being comparatively powerless in respect to the proceedings of the rest. When the monarchs began, however, to obtain the command of mercenary troops, by which the feudal power was rendered more insignificant than it had yet been, they were in a condition to watch the proceedings of their neighbours, and to aid or repel foreign attacks as seemed best to accord with their interests. There were a few distinct events in the history of Europe about the period under consideration, which tended to produce these three results ; namely, the establishment of standing armies ;—the maintenance of political intercourse between different nations ;—and the extinction of feudal power.

England had possessed for a considerable period a portion of what now constitutes France. This greatly interfered with the proceedings of the French monarchs ; for, harassed by the English on one hand and by the powerful barons on the other, they could not form any large and comprehensive national plans. The English were nominally the vassals of the French crown for the territories which they held in France ; but in effect they were independent, and often combined with the feudal nobles to frustrate the plans of the monarch. Had this state of things continued, France would never have been able to

put forth her strength and to rise into a powerful nation. The death of Henry V. of England was an event favourable to France. The evils attendant on a long minority, the dissensions of the English court, and the absence of steady enterprize in the general proceedings of England, afforded the French a favourable opportunity of recovering the territories which they had lost. The court and the nobles combined on this occasion with earnestness, and by degrees stripped the English of all their possessions in France, with the exception of Calais and its vicinity.

As soon as this conquest was effected, the French kings found themselves in a position to adopt bolder and more comprehensive plans than they had hitherto ventured on. They watched the proceedings of surrounding nations, and sought how they might strengthen themselves by taking advantage of events as they occurred; while they were in their turn regarded with some fear and suspicion by their neighbours. The feudal power then began to experience the effects of the contests between France and England. The inefficiency of a feudal army for combined and long-continued plans of warfare, became so sensibly felt, that the necessity for some change was apparent to every monarch. By the steps which we have noted, a body of mercenary troops was established; but it was not till the reign of Charles VII., (A.D. 1420—1460), that a decisive step was taken. Under pretext of having always ready a force sufficient to defend the kingdom against any sudden invasion of the English, he retained under arms a body of nine thousand cavalry and sixteen thousand infantry. He appropriated funds for the regular payment of these troops, stationed them in different parts of the kingdom, and appointed experienced officers to command them. There came to be a kind of glittering pomp attached to the command of this army, and the nobles courted the office as an honourable post. It was soon perceived that the feudal militia became insignificant by the side of these troops; imperfectly armed and disciplined, and isolated in

small and scattered bodies without any central authority over the whole, the retainers of the barons found that they no longer commanded respect, or had importance attached to them. 'The strength of an army,' as Robertson remarks, 'was no longer estimated solely by the number of cavalry which served in it. From the time that gunpowder was invented, and the use of cannon in the field became general, horsemen cased in complete armour lost all the advantages which gave them pre-eminence over other soldiers. The helmet, the shield, and the breast-plate, which resisted the arrow or the spear, no longer afforded them security against these new instruments of destruction. The service of infantry rose again into esteem, and victories were gained, and conquests made, chiefly by their efforts. The nobles and their military tenants, though sometimes summoned to the field, according to ancient form, were considered as an incumbrance upon the troops with which they acted, and were viewed with contempt by soldiers accustomed to the vigorous and steady operations of regular service. Thus the regulations of Charles VII., by establishing the first standing army known in Europe, occasioned an important revolution in its affairs and policy. By taking from the nobles the sole direction of the national military force, which had raised them to such high authority and importance, a deep wound was given to the feudal aristocracy in that part where its power seemed to be most complete. France, by forming this body of regular troops at a time when there was hardly a squadron or company kept in constant pay in any other part of Europe, acquired such advantages over its neighbours, either in attack or defence, that self-preservation made it necessary for them to imitate the example. Mercenary troops were introduced into all the considerable kingdoms on the continent. They gradually became the only military force that was employed or trusted.'

Besides these causes of change, others conspired towards the same end. The barons of France had expended so

much wealth in the wars against England, that many of them were greatly impoverished. The lands of many others had been overrun by the contending armies, and reduced almost to ruin. The people, too, having to pay large contributions towards the national force, had little to give to their feudal superiors; and the coin of the realm having been regulated so as to suit the exigencies of the state, the various payments to the barons, fixed by ancient usage, such as fines and quit-rents, became greatly reduced in value, and seriously lessened the revenues of the feudal nobility. Charles also established a system whereby he obtained subsidies from the people, without obtaining or even asking the assent of the nobles, and thus added to the power which was gradually undermining them.

The proceedings which Charles VII. thus commenced, his son Louis XI. completed. It was under the reign of this skilful but cruel monarch that feudalism virtually ceased to exist in France. He obtained possession, by various means, of several great fiefs, or feudal provinces of the kingdom, such as Burgundy, Artois, Provence, and Rousillon, thus consolidating France into a compact kingdom. Against the feudal nobles generally he planned and executed a systematic course of fraud, violence, and deceit, having constantly in view the annihilation of the feudal power. He placed in all the departments of government men of mean birth and condition, who deriving all their advantages from him, became the obsequious instruments of his will. The nobles were studiously excluded from honours, emoluments, and privileges, so that they had to choose between two modes of life, either to attend court as mere powerless shadows of what they had once been, or to remain secluded and unnoticed in their castles. More than this, Louis strove to reduce them to the level of other subjects, by stripping them of their exclusive privileges one by one. Whenever any one of them could be made amenable to the law in the slightest degree, he was treated with all possible ignominy, in order that the people, by

seeing the nobles reduced to such an abject state, might hold them in indifference or contempt, and transfer all their reverence to the sovereign. As a means of preventing the nobles, roused as they were to exasperation, from planning any combined mode of resistance, he resorted to the meanest and most contemptible arts for fomenting quarrels and differences between feudal families; there was nothing too violent, nothing too cruel, nothing too dastardly and unmanly for Louis to adopt, provided it tended to the object which he had in view.

Without tracing out the events of his extraordinary reign, we may state that feudalism in France effectually ceased under him, and was not again revived. Had the institution been fitted for the permanent well-being of society, it would have revived. But it had performed its part in the progress of civilization; it had formed a connected link between the barbarism of previous times, and the enlightenment of subsequent ages, and was now become unsuited to the wants and state of society.

Meanwhile similar results were being worked out in other nations of Europe. Henry VII. of England, as soon as the termination of the contest between the rival houses of York and Lancaster had placed him on the throne, began to imitate in some degree the example of Louis. Caution, however, was necessary, for he held the sceptre of a disputed title; a popular faction was ready every moment to take arms against him, and the regal power had been so long relaxed by the civil wars which had distracted the kingdom, that the feudal nobles had maintained much of their individual importance and independence of the crown. He therefore pursued a more silent and unobtrusive system in undermining the feudal power. By laws which he passed, permitting the barons to 'break the entail' of their estates, and expose them for sale; by his regulations to prevent the nobility from keeping in their service those numerous bands of retainers, which rendered them

formidable and turbulent; by favouring the rising power of the Commons; by encouraging population, agriculture, and commerce; by accustoming his subjects to an equitable administration of the laws; and by the maintenance of peace during the greater part of his reign;—he quietly effected in England, by much less reprehensible means, that change which Louis had wrought in France. He bequeathed to his son Henry VIII. a kingdom in which the feudal nobles possessed very little power, except such as belonged to them as wealthy subjects of the monarch; and we thus arrive at the period when feudalism may be said to have ceased in England.

In Spain, the great circumstance which about the same period led to the rise of the monarchical power on the ruins of the feudal system, was the union of the kingdoms of Arragon and Castile by the marriage of Ferdinand and Isabella. Before that period Spain had been convulsed by the disagreements of one province with another, of one coterie of nobles with another, and by the fierce contests between all of these and the Moors. But when the union of the two important sub-kingdoms, if we may use the term, had added to the strength of both, they were in a condition to attack the Moors with more force than before, and finally to expel them from the kingdom of Granada, which thenceforward became part of the Spanish kingdom. Every accession of regal authority, by establishing a central government, is in its very nature inimical to a feudal institution, which is essentially federal and not central.

Hence the nobles of Spain gradually lost much of the power and consideration which had before attached to them. There have been circumstances in operation down to our own day, which have given to the Spanish grandee an imposing hauteur and pomp hardly equalled in any other country of Europe; but so far as regarded the peculiar relation between baron and vassal, the feudal system may be said to have pretty well terminated in that country

during the joint reigns of Ferdinand and Isabella; not far removed in point of time from the period of its termination in France and England.

In Italy the number of commercial cities was great, and so great also was the number of principalities or powerful dukedoms, totally independent of each other, that the feudal system did not assume quite the same form there as in other countries. Still it existed; and it was not till the invasion of Italy by Charles VIII. son of Louis XI., that the political intercourse with other countries broke down the system by the establishment of standing armies. Charles entered Italy with a finely appointed army, and so utterly discomfited all the Italian states, that they afterwards saw the necessity of combining their forces more closely, and maintaining national armies for national defence—a step which, as before stated, necessarily destroyed the individual power of the nobles. A similar series of events occurred in Germany, where the various states established and paid troops for the general defence.

Thus Europe exhibited standing armies, of more or less extent, in most of the principal countries; and these gave rise to the political relations which have ever since been maintained between one country and another. Politics no longer meant simply the negotiation between a powerful baron and his neighbour; it grasped all that concerned contiguous countries in their relations one to another; and by about the year 1500 the feudal nobles of Europe came to be in effect ranked among the general subjects of the monarchs. •

CHAPTER XII.

THE EFFECTS OF FEUDALISM ON SOCIETY.

Recapitulation. Effects of Feudalism. Origin of Chivalry. How connected with the Profession of Arms. Remarkable Ceremonies observed on creating a Chevalier. The Vow of the Chevalier. Effects of Chivalry transmitted to Modern Times. Influence of Feudalism on Domestic Manners. Picture of a Feudal Family. The Feudal Chief compared with the Roman Patrician. Feudalism compared with the Patriarchal System, and with Clan-ship. Increased respect towards the Female Sex produced by Feudalism. Effects of Feudalism on the Vassals, and on Society in general. Effects on Government or Political Power. Effects of Feudalism on the Fine Arts: on Commerce: on Science: on Education and the Mechanical Arts. Conclusion.

THE foregoing details will have explained the agencies whereby feudalism became extinguished in most of the countries of Europe, and the feudal power merged into the institution which forms the aristocracy of the present day; an institution partaking of the character necessarily belonging to the system which gave it birth, and holding an important place in the general structure of society.

So far as the prescribed limits would allow, we have endeavoured to trace the feudal system through its stages of growth, prosperity, and decline. We have seen that it resulted from the terrible disorders into which Europe was thrown by the irruption of barbarous tribes into the weakened and degenerated Roman empire. We have seen that, when once firmly fixed in any country, it exercised a peculiar effect on the relations between the nobles and the state generally, and between them and the vassals under them. It has been explained also, that gradations in rank resulted in great measure from feudalism; that legislative and judicial proceedings acquired a characteristic tone therefrom; that religion, morals, education, commerce, the arts

of refinement, and the productive arts, all assumed a particular form or condition while under the influence of the feudal system. The circumstances which led to the gradual declension of this system were, as we have seen, very numerous. The rise of municipalities, or corporate towns, by which citizens were permitted to manage their own affairs, without reference to the neighbouring barons; the crusades, by which commerce was introduced into the Italian cities, and by which also the manners of men acquired that humanizing tone usually exemplified by the word chivalry; the great and important improvement in the laws, consequent on the recovery of the Roman law, the spread of the canon or ecclesiastical law, and the more equitable and consistent mode in which the proceedings in courts of justice were thereafter conducted; the rise of representative government, by which the people, instead of being wholly dependent for political power on the will of the nobles, had a voice in the general government of the country; and the increase of the kingly power by the establishment of standing armies, and the maintenance of political relations with other countries—all worked together to bring about the decline of the feudal system.

A few words may be said in conclusion, as to the effects which this system has produced on society. It existed too long, and was too intimately mingled with the usages and thoughts of men, to leave no legacy behind. Those who imagine that all the great stages through which countries have passed, and the different institutions to which they have given rise, have been necessary to the developement of the present condition of those countries, will naturally endeavour to trace the effects of feudalism in later ages, long after the system as a whole had ceased to exist.

The first point to which we will allude is *chivalry*, or a *sense of honour*. It has been the general custom among historians (and we have had occasion more than once to treat on the matter in the preceding pages) to refer the origin of chivalry to the crusades. But M. Guizot has

opened a new view of the matter, and thinks that the source of chivalry is to be found in the social mechanism of the feudal system. The extracts which we have hitherto taken from this distinguished writer have been from his *Lectures on European Civilization*; but the developement of his opinions on the present subject is contained in the fourth volume of his larger work, the *Histoire de la Civilisation en France*.

The position assumed by M. Guizot is, that the introduction of young men to the military service was the first germ of chivalry, and this was an essential feature of feudalism. Among the German tribes, from which the feudal nobles principally sprang, when a youth arrived at the age of manhood, he received solemnly, in the presence of his tribe, the rank and the arms of a soldier; so that the introduction of a young man into the class of warriors was a national act, a public ceremony.

When the feudal nobles became settled in their castles, the same spirit pervaded them as to the induction of young men into the profession of arms. The vassals eagerly sought to have their sons brought up in the castle of the feudal superior, on account of the advantages which would be thereby derived; and when these young men, as well as the sons of the baron himself, were of an age to assume the profession and the dignity of arms, the investiture was a matter of much ceremony and importance. The young men were eager to obtain this distinction, while the barons were glad to avail themselves of the swords and the courage thus offered for their acceptance. Until the assumption of arms, the youths served in the castle as cup-bearers, esquires, pages, or some other class of retainers, and were gradually imbued with the sentiment of respect towards the baron in whose castle they resided; but from the moment when, in the presence of the baron and his retainers, a young man was formally invested with his sword and his spurs, his relation towards the baron was changed; he ceased to serve in mere household duties, but assumed the privilege of

fighting for and protecting his lord, his lord's family, and his lord's estate. Herein consists what M. Guizot deems to be really *chivalry*. After quoting the opinions of historians as to the origin of chivalry in the crusades, he says:— 'Chivalry was not an innovation of the eleventh century, an institution formed by special circumstances: it was produced much more simply, much more naturally, much more obscurely; it was the progressive developement of ancient usages, the spontaneous consequence of Germanic customs and feudal relations; it was born in the interior of the baronial castles, without any other object than those of admitting young men to the rank and profession of arms, and of establishing a tie between the young soldier and the feudal lord.'

But it is necessary to shew how the peculiar character of chivalry was connected with this mere assumption of arms. When the feudal society became tolerably fixed, the usages, sentiments, and circumstances of every kind which accompanied the admission of a young man into the rank of a vassal soldier, came under the empire of two influences, which did not fail to impress a new character on the ceremony. These were *religion* and *imagination*. When the ceremony was about to be performed, the young man put off his clothes and entered a bath, as a symbol of purification; he then put on a white garment, as a symbol of purity; next a red one, as a symbol of the blood which he was ready to shed in the service of his suzerain; and lastly a black one, as a symbol of the death which he was prepared to expect and to meet. He then went through a rigorous fast for twenty-four hours, and passed the ensuing night in a church or chapel, engaged in prayer either by himself, or with priests. On the morrow, being the great day of the ceremony, he confessed, then received the sacrament from a priest, then assisted at mass, and then listened to a sermon on the duties of chevaliers to their superior and to each other. He then approached the altar and knelt down; the priest blessed the sword; and the lord of the

castle, after a few words of introduction, invested the young man with the sword. Then the other chevaliers, and sometimes the ladies of the castle, assisted in putting on him the various pieces of armour consistent with the martial usages of the time. The seigneur then gave the 'accolade,' or three blows with the flat of the sword on the shoulder of the young chevalier, saying at the same time, 'In the name of God, of St. Michael, and of St. George, I dub thee chevalier;' adding sometimes, 'Be virtuous, bold, and loyal.' The chevalier then mounted a horse, (which he endeavoured to do by a single spring, without the aid of stirrups), and caracoled to and fro before those assembled, brandishing his sword and lance, and going through sundry evolutions. He then went to the court-yard of the castle, and exhibited himself to all the inferior vassals and retainers.

Now whatever may in the present day be thought of such a ceremony, it is plain that the Church must have exerted a good deal of influence on the character of the young soldier, and that romance and imagination must have greatly influenced the thoughts of one who felt himself suddenly called upon to be the defender of others. In France, between the eleventh and the fourteenth centuries, a newly made chevalier was bound to take, at different times, many different oaths as to the regulation of his conduct; and from these it will be seen that honour, fidelity, bravery, humanity, reverence, are all more or less insisted on, in a way which connects religion and imagination with the office of the chevalier.

The chevalier was required solemnly to swear:—

'That he would fear, reverence, and serve God religiously, combat for the faith with all good will, and rather die a thousand deaths than renounce Christianity.

'That he would serve his sovereign prince faithfully, and fight for him and his country valorously.

'That he would sustain the rights of the feeble, such as widows, orphans, and virgins, by hazarding his life in their service; provided he could do so consistently with his own

honour, and with his duty towards his sovereign, or superior.

‘That he would not maliciously offend any one, nor appropriate the property of others ; but would rather combat against those who did so.

‘That he would be incited to good actions—not by the hope of reward, or gain, or profit—but for glory and virtue alone.

‘That he would fight for the general welfare of all.

‘That he would be obedient to the orders of the generals or leaders who might have command over him.

‘That he would guard the honour, the rank, and the order of his companions in arms.

‘That he would never fight against a man at unfair odds, and that he would shun meanness and deceit.

‘That he would never carry more than one sword, unless he were forced to combat against two or more opponents.

‘That in any tournament or pleasure-combat, he would not avail himself of the point of his sword.

‘That he would keep faith inviolably to every one, especially to his companions, whose honour he would also defend in their absence.

‘That he and other chevaliers would love and honour one another, and give mutual aid and protection whenever needed.

‘That having made a vow or promise to engage on any enterprize, he would remain in arms continually, except for nightly repose.

‘That in pursuit of any enterprize, he would not shun perilous routes, nor turn out of the high road to avoid chevaliers, or monsters, or savage beasts, or any other impediment which the person and courage of one man might fairly encounter.

‘That he would never accept a reward or pension from a foreign prince.

‘That if he were placed to guard a woman, he would

serve and protect her from all danger and insult, at the hazard of his life.

‘That he would respect the honour of women taken by the fortune of war.

‘That he would never refuse to fight a man who might challenge him.

‘That if he had made a vow to acquire honour by military exploits, he would not quit the scene of strife till he had achieved it.

‘That he would faithfully observe his word and pledged honour ; and that, being taken prisoner in fair warfare, he would pay punctually the promised ransom, or else return again to captivity at the expiration of a given time, on pain of being branded as infamous and perjured.’

On glancing over the above ordeal of honour, it cannot fail to be observed that there is much of an ennobling, heroic, and virtuous cast, mixed up doubtless with much that is absurd and inconsistent with the modern usages of society. When the feudal spirit broke forth beyond the limits of the baronial castles, the chevaliers became just the men who would swell the ranks of the Knights Templars, the Knights Hospitallers, and others who fought through a chivalrous feeling for religion. When the same spirit manifested itself in a more limited sphere of social life, it gave origin to that kind of knight-errantry, or chivalrous defence of the weak against the strong, which has been so admirably and delicately caricatured by Cervantes, in the character of Don Quixote. If, as Guizot thinks, these usages sprang from the bosom of the feudal system ; and if, notwithstanding the absurd and wicked refinement of notions of honour which lead to duelling, the courtesy, the delicacy, the generosity, the gallantry of modern times may be traced mainly to the institution of chivalry—then ought this to be ranked among the favourable effects which feudalism has produced on society.

The above features relate to society at large, as being a

field wherein the feudal chevalier could manifest some of the better qualities of the mind. We have next to look at the natural tendency of feudalism in respect to the baron as a man, as the father of a family, and as the master of vassals. Here again we shall avail ourselves of the opinions of M. Guizot, as developed in his 'European Civilization.' In order to trace the natural influence which the feudal tie would exert on the characters of those who formed it, Guizot pictures a feudal family, and then endeavours to enter into the thoughts of those who formed its members. There is first the possessor of the fief, who builds a castle for himself on some strong and elevated site. Here he takes up his home, with wife and children, and perhaps with some freemen who, not having become proprietors, attach themselves to his person, live in his castle, and eat at his table. Around the base of the castle are the vassals, and serfs; and among this humble population religion appears, founds a church, and introduces a priest. Here is the feudal nucleus, the element of a feudal family; and we have to trace the relation between its members. ✓

'The first fact which strikes us in considering this society, is the prodigious importance the possessor of a fief must assume in his own eyes, and in those of the persons who surround him. The sentiment of personality, of individual liberty, was the governing principle of barbarian life. It was far different here. It is not the liberty of the individual, it is the importance of the proprietor, of the head of the family, of the master—that is here thought of. From this situation, a feeling of immense superiority must have arisen; a peculiar superiority, very different from everything that is met with in other forms of civilization. As a proof of it, I will take the example of the Roman patrician in the ancient world. Like the feudal lord, the Roman patrician was the head of his family, the master and superior of his household. Moreover, he was a religious magistrate or priest, in the interior of his family.

But the importance of a religious magistrate is communicated to him *from without* ; it is not a purely personal or individual importance : he receives it from heaven, he is the delegate of the Divinity, the interpreter of the religious ideas entertained respecting God in the society to which he belongs. The Roman patrician was besides a member of a corporation which lived united together in his own city ; he was a member of the senate, and thus acquired (also *from without*) importance of a different nature, an importance which belonged to the corporation, and was transmitted by it to him. The grandeur of the ancient aristocrats, who united both a political and a religious character, belonged to the situation, to the general corporation, rather than to the individual. That of the possessor of a fief is purely individual ; it is unconnected with others ; all his authority, all his rights, emanate from himself alone. He is not a religious magistrate, nor does he form part of a senate ; it is in his own person, on his individual self, that all his importance is centred. Everything that he is, he is by himself, and in his own name. What influence such a situation must exercise on him who occupies it ! What personal haughtiness, what prodigious pride, what insolence even must arise in his mind ! Above him, no superior of whom he is the representative and interpreter ; no equal near him ; no rigorous and universal law to restrain him, no outward authority to control his will ; he knows no check but the limits of his power and the presence of danger. Such are the social results of the situation on the character of the individual.'

M. Guizot next compares the feudal tie with the *patriarchal* system of the early ages, and with the *clanship* of Scotland in later times, with the view of shewing that it differed from both. Under the patriarchal government, the family was very numerous, and the chief lived among his children, his relations, and even his servants ; having with them all the same interests, and nearly the same

occupations. In the *clan* government, although there was great inequality in the rank of the chief and his clansmen, he being looked up to by them as a superior, yet all the members of a clan had a common origin, and bore the same name, and there was a kind of moral or family tie established among them by relationship, ancient traditions, recollections, and similar affections. The feudal family was differently constituted. 'The population which surrounds the possessor of a fief are entirely unconnected with him; they do not bear his name; there is not any relationship, or historical or moral bond to unite them. The feudal family has still less resemblance to the patriarchal. The possessor of the fief does not lead the same life, does not occupy himself so laboriously as those by whom he is surrounded; he is idle, or engaged in war, while those around him are labourers. The feudal family is not numerous; it does not form a tribe; it is reduced to the family in its most restricted sense, to the wife and children of the chief; it lives secluded from the rest of the population in the interior of the castle. The serfs do not form a part of it; their origin is different; the inequality in their condition immense. Five or six individuals, inheriting a situation at once superior to, and unconnected with those beneath them, constitute the feudal family. It must evidently become impressed with a peculiar character; it is restricted, concentrated, incessantly obliged to defend itself, to mistrust, or at least to separate itself from all, even from its own servants. Private life, domestic manners, must necessarily acquire a great preponderance in such a society. I know that the brutality of the chief, his habit of passing his time either in war or in the chase, opposed a considerable obstacle to the development of domestic society. But that obstacle will be overcome. The chief must habitually return home; there he will find his wife and children generally alone; they form his permanent society; they partake his interests, his destiny. It would be impossible that

domestic life should not under such circumstances acquire a great ascendancy; and that it did so, is confirmed by many proofs. Was it not in the heart of the feudal family, that *women* first acquired some degree of importance? In all the ancient forms of society, (I do not speak of those where the *esprit de famille* did not exist, but of those where it was powerful—in the patriarchal life, for example), women did not by any means occupy the same position they attained in Europe under the feudal system. They owe this change in their situation, this improvement in their condition, to the development and the necessary preponderance of domestic manners introduced by feudality.' This part of the effects of feudalism is dwelt upon rather more strongly by Guizot than by Robertson.

Guizot, having thus considered the effect of feudalism on the lord himself, and on the lord in his domestic circle, next views the condition of the vassals assembled around the castle, and the relations which these bore to the country in which they lived. These we have already touched on, and need therefore only give Guizot's conclusions. 'Feudality was certain to exercise a considerable, and taking it altogether, a salutary influence, on the intellectual development of individuals. It excited in the soul energetic ideas and sentiments, moral wants, and noble developments of character and passion. Under a social point of view, it was incapable of maintaining legal order, or establishing political guarantees. It was indispensable as a means of renewing society in Europe, which had been so greatly dissolved by barbarism, that it was unable to assume a more regular or extended form; but the feudal form, radically vicious in its own nature, was incapable of being extended or regulated.'

This distinguished writer dwells forcibly on the circumstances, which he thinks established as fact, that feudalism improved on the whole the individual character, but was inconsistent with the wants and framework of society. He

says: 'If we cast our eyes over the general history of feudality, from the tenth to the thirteenth centuries, it is impossible to doubt that it exercised a great and salutary influence on the personal development of man, on the development of his sentiments, his character, his ideas. We cannot open any part of the history of those times, without being struck by the noble sentiments, the great actions, the splendid developments of humanity, which evidently proceeded from the genius of feudal manners. Chivalry bore no actual resemblance to the feudal system, yet it was its legitimate offspring. From feudality emanated that idea of noble, generous, and loyal sentiments, which bears witness in favour of its progenitor. If, on the other hand, we consult history on the *social* influence of feudality, we shall find that the feudal system was equally opposed to general order, and the extension of individual liberty. Under whatever aspect you consider the progress of society, the feudal system will always appear an obstacle to advancement. Therefore, from the commencement of feudal society, the two powers which govern the development of order and liberty—on the one hand the monarchical, and on the other the popular power—have constantly attacked and fought against it.'

With respect to the effects of feudalism on the government or political power of a country, the last remark quoted from Guizot, will serve to point out the aspect in which the matter should be viewed. It seems to be agreed by nearly all writers on the subject, that a country could not progress in power and wealth, or acquire the strength which results from union, if the feudal tenure continued to be for any great length of time the paramount one. There is, under its operation, but little intercourse between one part of a country and another; there is but little co-operation for any central and enlarged object; there are no *national* sympathies, because each fief is a kind of minor kingdom in itself, knowing and caring little for others.

But yet there seems ground for believing, that this system was a necessary step in the progress of nations from barbarism to civilization. Although it was opposed both by sovereigns and by the people, yet it probably acted as a check to both in turbulent times, and has since served as a link to connect the two. If we reflect on the character of a constitutional monarchy in our own day, we shall find that the nobility (who are to a certain degree the successors of the feudal seigneurs), occupy a medium position between the sovereign and the people, softening the gradation from one to the other, and joining with both in the enactment of laws for governing the country. There have been so many instances in past ages, of the three great powers of a kingdom acting as mutual checks in times of trouble, and as mutual aids in peaceful times, that we cannot fail to recognize the services which each one was fitted to render. In the time of King John, for instance, the feudal barons stepped in between the monarch and the people, and by procuring Magna Charta, rendered services to the country which have ever since been deemed most valuable. On the other hand, when England had been torn with dissensions during the 'Wars of the Roses,' which were engendered quite as much by the ambition of the feudal barons, as by rival claimants to the throne, Henry VII, by a steady course of policy, reduced the feudal power, and kept it better balanced with respect to the other two powers in the legislature.

When therefore we are considering the effects of feudalism in relation to government, we ought to bear in mind that, whatever were its defects, it seems to have been a necessary stage in the progress toward the constitutional monarchies of modern times. No countries at present exhibit that form of government, but such as were feudalized at a former period; it is a mixed power of sovereign and people wholly unknown in Asia; and feudalism assisted in its formation by curbing the extravagancies of both. To

use the words of a recent writer, the agency of feudalism in these matters may be regarded in these two points of view—‘that a great security for the peace and good order of society has resulted from deference to mere rank, especially in ages when the people were little improved; and that the worst effects produced by feudal habits are not too high a price to pay for the escape from despotism, and its debasing influence upon national character—an escape which we mainly owe to the genius of the feudal system.’

The fine arts, and the arts which minister to the luxuries and pleasures of life, were probably advanced rather than retarded by the feudal system. A proud and influential baron, as soon as the gradual changes in the usages of society had rendered war a less constant occupation than it had previously been, would naturally collect around him the elegancies and refinements of his time. The advancement of ecclesiastical architecture was doubtless the work of pious kings and powerful religious bodies, who munificently rewarded the services of those who built churches, abbeys, cathedrals, and such like structures; and the advancement of the arts of painting and sculpture in Italy was greatly due to the liberality and enlightenment of princely merchants, who had raised themselves to wealth and power, not by feudal privileges, but by commercial traffic; but in most of the other countries of Europe, the feudal nobles were one means of preserving and transmitting a taste for the elegancies of life.

On the other hand, commerce does not seem to owe much to feudalism. The two are imbued with a totally different spirit. Commerce is diffusive; feudalism exclusive. Commerce tends to lessen distinctions of rank in society; feudalism strengthens them. Commerce tends to make the earth one great nation; feudalism breaks it up into an indefinite number of petty nations. Commerce seeks to discover new countries, new seas, new channels of communication; feudalism knows little and cares little

for what occurs beyond its own limited circle. The rise of the Italian cities, such as Venice, Genoa, Pisa and Florence, took place in direct opposition to the wishes and plans of the feudal barons. Yet even here feudalism appears to have performed a part which could not well have been spared. The monarchs aided the inhabitants of the towns to gain independent power, as a means of curbing the nobles; but this aid would probably not have been given, had not the nobles possessed power; so that here again we find the three great powers of a kingdom mutually tending to balance each other.

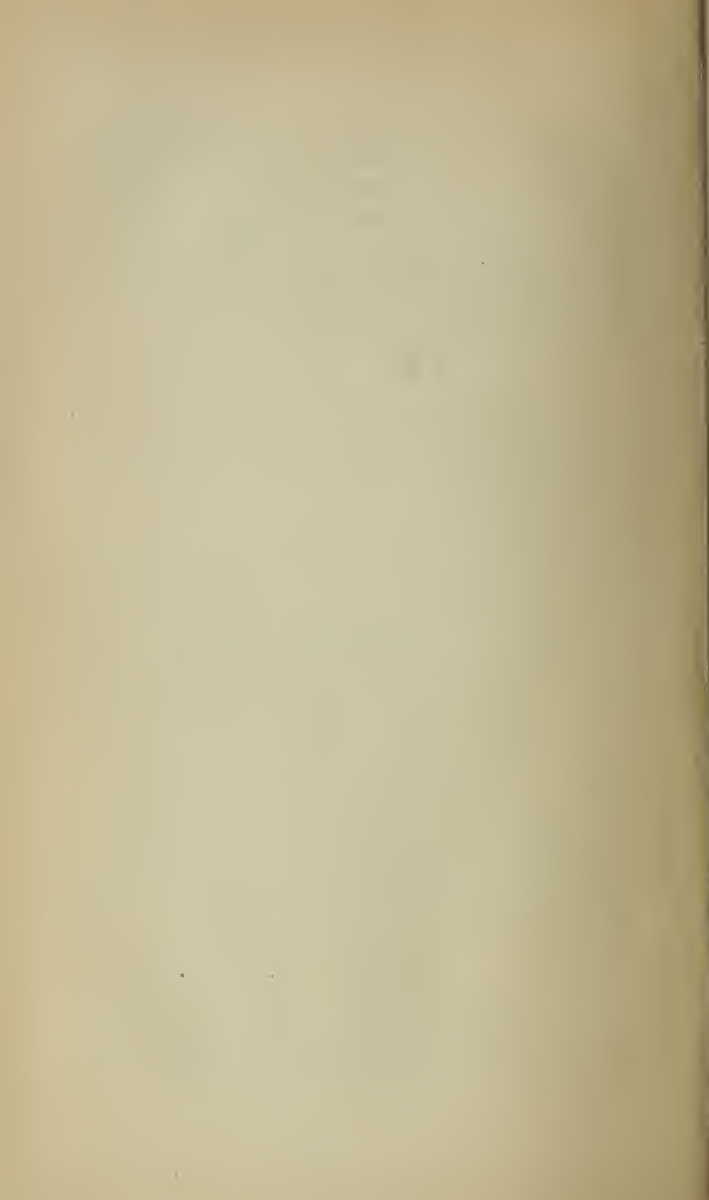
In science, in education, in the mechanical arts, the genius of feudalism does not display itself favourably. The incessant friction in society, which we experience in modern times, induces men to compare themselves with one another, to learn from one another, to copy, to imitate, to assist each other to form new wants, and to devise means for satisfying those wants, to make use of the discoveries or inventions of other men, and endeavour to improve upon them. All this is very foreign to the spirit which pervades the feudal system; although the latter may have been a necessary stage in the advancement towards present usages, yet it could not have acted otherwise than as a bar and hindrance, had it continued to remain powerful.

As a summary of these varied effects of feudalism, it may be useful to bear in mind a remark made by Guizot, to the effect, that those writers who have spoken very favourably of the feudal system, view it in relation to the individual character of man, and neglect its effects on society at large; while those who have indiscriminately condemned it take an exactly opposite course: the truth lying, as usual, between the two extremes.

It would indeed be strange, if such a system, extending as it did through a period of a thousand years (for we see faint indications of it as early as about A. D. 500, and it was not extinguished till about A. D. 1500 in the

principal countries of Europe), were to have been productive either of uniform good or uniform evil. Like all human institutions, it was a tissue of both; and if we view it as playing an important part in the progress of civilization, leading upwards from the barbarous to the cultivated, from the superstitious to the religious, from the warlike to the peaceful, from the idle to the industrious—we shall perhaps estimate it in its proper light.

THE END.



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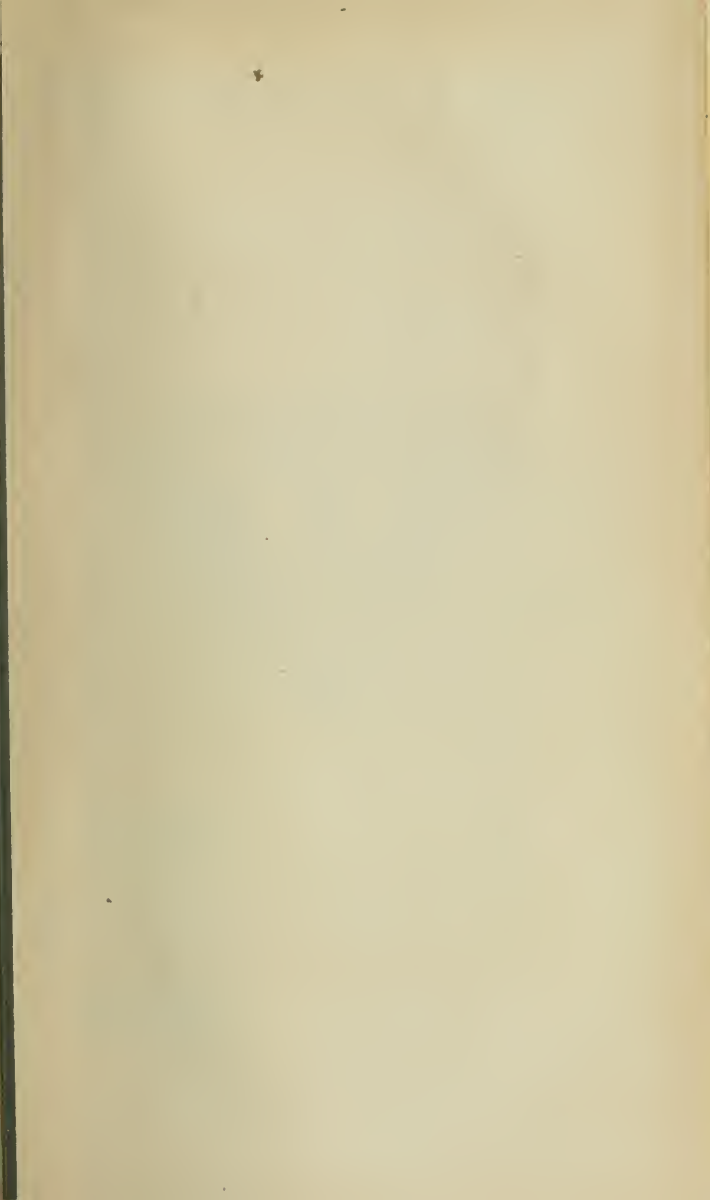
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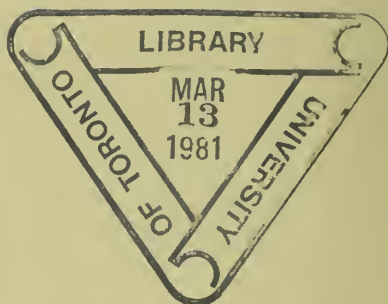
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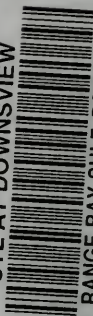
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